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Wednesday
February 8, 1989

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**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

**WHEN:** February 28, at 9:00 a.m.
**WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
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**Reader Aids**
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

# Rules and Regulations

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 208

**[Regulation H; Docket No. R-0636]**

### Membership of State Banking Institutions

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System is amending Regulation H, 12 CFR Part 208. The purpose of the amendment is to make available to the public information regarding the financial condition of state member banks and U.S. branches and agencies of foreign banks. The amendment requires state member banks to make available to shareholders and any member of the public, upon request, information regarding each such bank's financial condition in the form of the bank's two most recent year-end Reports of Condition and Income ("Call Reports") (OMB No. 7100-0036). As alternatives to furnishing the Call Reports, at each bank's option, persons requesting such information may be given one of the following: (1) Specified schedules from the two most recent year-end Call Reports; (2) in the case of a bank required to file statements and reports pursuant to Regulation H, a copy of the bank's annual report to shareholders for meetings at which directors are elected; (3) copies of independently audited financial statements (accompanied by a copy of the certificate or report of the independent accountant) if they contain information comparable to that presented in the two most recent year-end Call Report schedules specified for alternative (1) above; or (4) in the case of a state member bank that is the only bank subsidiary of a bank holding company, that is majority owned by that bank holding company, and that has assets equal to 95 percent or more of the bank holding company's consolidated total assets; (A) A copy of the annual report of the one-bank holding company prepared in conformity with the regulations of the Securities and Exchange Commission ("SEC"); or (B) if the holding company has assets of $150 million or more, copies of those portions of the bank holding company's two most recent year-end Form FR-Y-9C, "Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 Million or More, or With More Than One Subsidiary Bank" (OMB No. 7100-0128), that are comparable to the Call Report schedules specified for alternative (1) above.

The amendment also requires state licensed agencies of foreign banks and state licensed branches of such banks that are not insured by the Federal Deposit Insurance Corporation to make available, upon request, the following schedules from the two most recent year-end Reports of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks ("Foreign Branch and Agency Call Reports") (OMB No. 7100-0032): Schedules RAL (Assets and Liabilities), E (Deposit Liabilities and Credit Balances), and P (Other Borrowed Money).

**DATE:** This amendment shall be effective April 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Stephen L. Siciliano, Special Assistant to the General Counsel for Administrative Law, Legal Division (202/452-3920), Frederick M. Struble, Associate Director, Division of Banking Supervision and Regulation (202/452-3794), Rhoger H. Pugh, Manager, Policy Development Section, Division of Banking Supervision and Regulation (202/728-5883), Peggy S. Scarborough, Financial Analyst, Division of Banking Supervision and Regulation (202/452-2538) or Elizabeth Thede, Attorney, Legal Division (202/452-3274); or for the hearing impaired *only*: Telecommunication Device for the Deaf, Earnestine Hill or Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** The amendment to Regulation H requires state member banks to make available annually, upon request, specified financial information to shareholders and members of the public.

The Federal Deposit Insurance Corporation ("FDIC"), on December 17, 1987, adopted a final regulation requiring state-chartered banks that are not members of the Federal Reserve System to prepare annual disclosure statements that are to be made available to the public upon request. The Office of the Comptroller of the Currency adopted a final regulation similar to the FDIC's but applicable to national banks on February 10, 1988. The regulations of both agencies also apply to U.S. branches and agencies of foreign banks that are regulated by those agencies.

This amendment to Regulation H requires a state member bank to make available its most recent year-end Call Report together with its Call Report for the prior year end. Alternatively, a state member bank may fulfill the disclosure requirement of the amendment by making available: (1) Certain specified schedules from its two most recent year-end Call Reports; (2) in the case of a bank required to file statements and reports pursuant to Regulation H, a copy of the bank's annual report to shareholders for meetings at which directors are elected; (3) copies of independently audited financial statements (accompanied by a copy of the certificate or report of the independent accountant) if they contain information comparable to that presented in the two most recent year-end Call Report schedules specified for alternative (1) above; or (4) in the case of a state member bank that is the only bank subsidiary of a bank holding company, that is majority owned by that bank holding company, and that has assets equal to 95 percent or more of the bank holding company's consolidated total assets, the bank holding company's annual reports filed with the SEC or, if the holding company has assets of $150 million or more, certain information from its two most recent year-end consolidated financial statements filed with the Board pursuant to Regulation Y.

The amendment also requires state licensed agencies of foreign banks and state licensed branches of such banks that are not insured by the FDIC to make available, upon request, Schedules RAL (Assets and Liabilities), E (Deposit Liabilities and Credit Balances), and P

(Other Borrowed Money) from their two most recent year-end Foreign Branch and Agency Call Reports.

State member banks and Board-regulated U.S. branches and agencies of foreign banks must inform persons receiving information pursuant to the amendment that the Federal Reserve System is not responsible for the accuracy or completeness of such information. The Board notes, however, that state member banks are required to prepare the Call Reports by 12 U.S.C. 324 and § 208.10 of Regulation H (12 CFR 208.10), that U.S. branches and agencies of foreign banks are subject to the reporting requirements of 12 U.S.C. 3105(b), and that the filing of false reports with an agency of the United States is a federal crime (18 U.S.C. 1001, 1005). The content and accuracy of reports to shareholders and of audited financial statements are adequately addressed by other federal and state laws.

The purpose of the amendment is to make available to the public information regarding the financial condition of state member banks and U.S. branches and agencies of foreign banks. The information made available pursuant to this amendment will most likely be of particular interest to shareholders and to persons doing business with such institutions. The amendment addresses only the disclosure to the public of the documents identified in § 208.17 (d) and (e). The amendment does not address the disclosure obligations of banks and bank holding companies under federal and state securities laws. The amendment is not intended to affect the legal rights of shareholders and other persons under state and federal laws or contractual obligations between banks and other persons. The amendment is also not intended to create a private right of action against any institution disclosing documents pursuant to this provision, and the Board has added a provision to the proposed amendment to this effect.

On May 27, 1988 (53 FR 19308), the Board issued for comment the proposed amendment to Regulation H. In response to this request for comments, the Board received 26 public comments from interested individuals and organizations. The comments the Board received on the proposed amendment were largely unfavorable. Many commentators focused on the cost of such additional regulation, especially to small banks. The commentators argued that even if the amendment is not in itself prohibitively expensive to small banks, the amendment, when coupled with those requirements already in effect or being implemented, would create a heavy burden on small banks. Commentators stated that the cost of compliance will put affected banks at a competitive disadvantage relative to other financial institutions. One trade association contended that financial disclosures will not benefit depositors since depositors know that their deposits are FDIC-insured and that, in any case, regulators do not allow large banks to fail. Disclosure of troubled finances of small banks could, however, heighten concerns of depositors whose deposits are not completely insured.

The Board does not believe that increased public access to this information will have such ill effects. The information required to be disclosed under the amendment is information that is presently prepared by banks and that is publicly available and routinely disclosed upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Board's regulations implementing that Act. The amendment simply increases the ease with which the public can access the information. Instead of having to locate the relevant bank regulator and ascertain the appropriate means of filing a request for information, the public will be able to go directly to the bank for the information.

The Board also believes that commentators' concerns about the burden that this amendment will impose, particularly on small banks, are unfounded. The Board has structured the amendment to facilitate the disclosure of information that is properly in the public domain in a manner that imposes the least possible burden on state member banks and other covered institutions. Covered institutions would not be required to prepare new reports, but only to make available upon request reports or other financial information that they already prepare. State member banks presently are required to publish the balance sheet portion of their Call Reports pursuant to § 208.10 of Regulation H.

Several commentators recommended that banks be allowed to pass reproduction costs on to requestors of the information. The final rule clarifies the Board's position on whether banks may charge a copying fee by requiring banks to provide one free copy to each requestor of the document the bank has chosen to disclose. The Board believes that providing a free copy best comports with the underlying principle behind the amendment, which is to provide easy access to financial information about banks. The Board does not believe that the assumption of this cost will be too onerous a burden for banks. Limiting the number of free copies the bank must provide to one free copy per requestor ensures that no requestor can abuse this requirement by submitting requests for multiple copies. Should the reproduction cost prove unexpectedly burdensome on banks, the Board would be amenable to reconsidering its position on copying fees.

The amendment also requires banks and other covered institutions to notify shareholders and the public of the availability of these reports. In the case of shareholders, the amendment specifies that notification be made in the form of a written announcement that may be included with the notice of the annual shareholders' meeting. In the case of the public, the amendment does not specify the means to be used to provide notification, but only requires that the means be "reasonable." Several commentors asserted that the cost of mailing notices to the general public may be very high and urged that the proposed amendment be revised to indicate that banks can comply with the requirement by making the required information available on bank premises. It is the Board's intent to be flexible on the means a bank may choose to satisfy this notification requirement. For example, if a bank views mailing notices to all members of the community as too costly, the bank may post a notification in its lobby. If a bank finds that it has too great a proliferation of lobby notifications already, it may satisfy the requirement by passing out brochures, by leaving brochures at a convenient place in the lobby, by publication in a newspaper of general circulation, or by other means. In sum, the Board will view as reasonable any means that transmits to the public, particularly the public that does business with the institution, that such information is available. The final rule has been modified to provide that the notification to the public, as well as the notification to shareholders, must state that one copy of the information is available free of charge upon request.

Several commentators also expressed concern about the proposed requirement that banks provide the information "as soon as it becomes available." One trade association indicated that this language might force banks to release information before having a chance to prepare it for public release. The trade association also stated that, by requiring banks to choose which report to release on the basis of which report was available first, this language might effectively preclude the choice the amendment provides banks about which form of information to release. Finally,

the trade association argued that banks should be permitted to mail a disclosure statement within a reasonable time period after the information is requested to enable banks to utilize central distribution centers.

The final rule has been modified to address these concerns. The final rule makes it clear that a bank need not determine which information to release on the basis of which information is available first. A bank can release any document satisfying one of the amendment's options, so long as the bank releases the document as soon as is reasonably possible but not later than April 1. The Board intends the April 1 cut-off date to strike a balance between ensuring that banks are reasonably able to select among the disclosure options provided in the amendment and ensuring that the public obtains reasonably current information regarding the bank's condition. Nothing in the final rule prevents banks from utilizing central distribution centers.

One commentator stated that banks should be able to disclose additional materials along with the materials the amendment requires. The Board notes that the amendment identifies specific information that covered institutions must disclose. The Board has no objection to disclosure of additional information so long as the information helps the public to understand the information that the bank or other covered institution is required to disclose, and does not mislead the public as to the financial condition of the institution. A bank could, for example, include a narrative statement describing the disclosed items. A bank could also provide quarterly disclosures along with the annual disclosures required by this amendment. In addition, a state licensed agency of a foreign bank could provide information on the financial condition of the foreign bank.

In response to a suggestion from a commentator, the Board's final rule exempts bankers' banks from the general public disclosure requirements on the grounds that such requirements are unnecessary in light of the unique purpose and function of bankers' banks. Congress has recognized the unique character of bankers' banks by exempting them from the Community Reinvestment Act's disclosure requirements. The final rule continues to require bankers' banks to comply with the shareholder disclosure requirements.

One trade association suggested that the amendment carry a two-year sunset provision to ensure that the Board will reevaluate the proposal. The Board regards a sunset provision as unnecessary. The Board can reexamine the amendment at any time, and interested members of the public can petition for reexamination at any time.

**List of Subjects in 12 CFR Part 208**

Membership, Banks, Accounting, Confidential business information, Federal Reserve System, Reporting and recordkeeping requirements, Securities, Disclosures of financial information.

For the reasons set out in this notice, and pursuant to the Board's Authority under section 11 of the Federal Reserve Act of 1913, as amended (12 U.S.C. 248), and section 7 of the International Banking Act of 1978 (12 U.S.C. 3105(b)), the Board amends 12 CFR Part 208 as follows:

## PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for Part 208 continues to read as follows:

**Authority:** Sections 9, 11, and 21 of the Federal Reserve Act (12 U.S.C. 321–338, 248, and 486, respectively); sections 4 and 13(j) of the Federal Deposit Insurance Act (12 U.S.C. 1814 and 1823(j), respectively); section 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); sections 907–910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906–3909); sections 2, 12(b), 12(g), 12(i), 15B(c)(5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78/(b), 78/(g), 78/(i), 780–4(c)(5), 78q, 78q–1, and 78w, respectively); and section 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927.

2. Section 208.17 is added to read as follows:

### § 208.17 Disclosure of financial information by state member banks.

(a) *Purpose and scope.* The purpose of this section is to facilitate the dissemination of publicly available information regarding the financial condition of state member banks, state licensed agencies of foreign banks, and state licensed branches of foreign banks that are not insured by the Federal Deposit Insurance Corporation. This section requires all state-chartered banks that are members of the Federal Reserve System and all other covered institutions:

(1) To make year-end Call Reports or Reports of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks or, in the case of state member banks, other alternative financial information, available to shareholders, customers, and the general public upon request; and

(2) To advise shareholders and the public of the availability of this information.

This section does not amend or modify the publication requirements of § 208.10, or any other section of this regulation.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) "Call Report" means the Consolidated Reports of Condition and Income (OMB No. 7100–0036) filed pursuant to 12 U.S.C. 324 and § 208.10 of this regulation (12 CFR 208.10).

(2) "State member bank" means a bank that is chartered by a State and is a member of the Federal Reserve System.

(3) "Other covered institutions" means state licensed agencies of foreign banks, or state licensed branches of foreign banks that are not insured by the Federal Deposit Insurance Corporation.

(c) *Availability of financial information*—(1) *Shareholders.* Each state member bank shall advise its shareholders, by a written announcement, which may be included in the notice of the annual shareholders' meeting, that one copy of certain financial information is available free of charge upon request. The announcement shall include, at a minimum, an address or telephone number to which requests may be directed.

(2) *General public.* State member banks and other covered institutions shall use reasonable means at their disposal to advise the public of the availability of information pursuant to this section. Bankers' banks, as defined by the Federal Reserve Act, as amended by the Monetary Control Act of 1980 (Title I of Pub. L. 96–221), and 12 CFR 204.121, are exempt from this requirement. The notification to the public shall state that one copy of the information is available free of charge upon request and state an address or telephone number to which requests may be directed.

(d) *Financial information to be provided by state member banks.* The bank shall have discretion to determine which type of information, identified in this subsection, to release. The bank shall make the information it chooses to release available as soon as is reasonably possible but not later than April 1 of the year immediately following the end of the year to which the most recently available information pertains. State member banks shall fulfill the requirements of this section by providing, upon request, at least one free copy to each requestor of the following information:

(1) Copies of their entire Call Report for the most recent year end and the prior year end, excluding any information for which confidential

treatment is permitted pursuant to the Call Report instructions; or

(2) Copies of only the following schedules from their Call Reports for the most recent year end and the prior year end, excluding any information for which confidential treatment is permitted pursuant to the Call Report instructions:

(i) Schedule RC (Balance Sheet);
(ii) Schedule RC–N (Past Due and Nonaccrual Loans and Leases);
(iii) Schedule RI (Income Statement);
(iv) Schedule RI–A (Changes in Equity Capital); and
(v) Schedule RI–B (Charge-offs and Recoveries and Changes in Allowance for Loan and Lease Losses)—Part I may be omitted; or

(3) In the case of a bank required to file statements and reports pursuant to the Board's Regulation H, a copy of the bank's annual report to shareholders for meetings at which directors are to be elected or the bank's annual report; or

(4) In the case of a bank with independently audited financial statements, copies of the audited financial statements and the certificate or report of the independent accountant if such statements contain information for the two most recent year ends comparable to that specified in subsection (d)(2); or

(5) In the case of a bank that is the only bank subsidiary of a bank holding company, that is majority owned by that bank holding company, and that has assets equal to 95 percent or more of the bank holding company's consolidated total assets, a copy of either:

(i) The annual report of the bank holding company prepared in conformity with the regulations of the Securities and Exchange Commission; or

(ii) If the holding company has consolidated assets of $150 million or more, the sections in the bank holding company's consolidated financial statements for the most recent year end and the prior year end on Form FR–Y–9C ("Consolidated Financial Statements for Bank Holding Companies With Total Consolidated Assets of $150 Million or More, or With More Than One Subsidiary Bank" (OMB No. 7100–0128)) prepared pursuant to the Board's Regulation Y, and comparable to the Call Report schedules enumerated in paragraph (d)(2) of this section.

(e) *Financial information to be provided by other covered institutions.* Other covered institutions shall fulfill the requirements of this section by providing, upon request, at least one free copy to each requestor of the following schedules from the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (OMB No. 7100–0032) for the most recent year end and the prior year end:

(1) Schedule RAL (Assets and Liabilities);
(2) Schedule E (Deposit Liabilities and Credit Balances);
(3) Schedule P (Other Borrowed Money).

The institution shall make the information available as soon as is reasonably possible but not later than April 1 of the year immediately following the end of the year to which the most recently available information pertains.

(f) *Disclaimer.* The following legend shall be included with any financial information provided pursuant to this section: "This financial information has not been reviewed, or confirmed for accuracy or relevancy, by the Federal Reserve System."

(g) This section is not intended to create a private right of action against any institution disclosing documents pursuant to this section.

Board of Governors of the Federal Reserve System.

February 1, 1989.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 89–2923 Filed 2–7–89; 8:45 am]

BILLING CODE 6210–01–M

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 615

### Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule; correction.

**SUMMARY:** The Farm Credit Administration (FCA) is correcting an error that appeared in the final rule which amended the regulation relating to the capitalization of Farm Credit System banks and associations. The final rule appeared in the **Federal Register** on October 13, 1988 (53 FR 40033).

**EFFECTIVE DATE:** This regulation shall become effective after the expiration of 30 days from publication during which either or both Houses of Congress are in session. Notice of effective date will be published.

**FOR FURTHER INFORMATION CONTACT:**

William G. Dunn, Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4402

or

Dorothy J. Acosta, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020, TDD 883–4444.

**SUPPLEMENTARY INFORMATION:** In printing the final rule for publication in the **Federal Register**, an error was inadvertently made.

### PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

1. On page 40046, third column, second line from the bottom, the word "implement" was incorrectly substituted for the word "impairment." Paragraph (b)(4) of § 615.5230 is correctly revised to read as follows:

### Subpart I—Issuance of Equities

**§ 615.5230 Implementation of cooperative principles.**

* * * * *

(b) * * *

(4) All classes of common stock and participation certificates (except those resulting from a conversion of allocated surplus) must be accorded the same priority with respect to impairment and restoration of impairment and have the same rights and priority upon liquidation.

Dated: February 2, 1989.

**David A. Hill,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 89–2954 Filed 2–7–89; 8:45 am]

BILLING CODE 6705–01–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 88–NM–129–AD; Amdt. 39–6126]**

### Airworthiness Directives; Boeing Model 737 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Model 737 series airplanes, which requires inspection of pressure relief panels in the cockpit door for the presence of sealant. The AD also requires removal of the sealant if it is present. This amendment is prompted by the discovery that panels have been erroneously sealed closed in production. The panels are designed to open in the

event of a decompression to prevent a buildup of differential pressure between the cockpit and other areas. This condition, if not corrected, could cause an unacceptably high pressure differential to build up and result in structural damage to the airplane in the event of decompression.

**EFFECTIVE DATE:** March 10, 1989.

**ADDRESSES:** The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-1932. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection for and, if necessary, removal of sealant on pressure relief panels in the cockpit door of certain Model 737 airplanes, was published in the **Federal Register** on October 13, 1988 (53 FR 40072).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America responded on behalf of its members:

The commenter advised that the cost estimate was in error, since only 650 airplanes were considered and the NPRM applies to 1,587 airplanes. The FAA does not concur. The cost estimate is based on the number of affected airplanes of U.S. registry only, even though there are in excess of 1,600 Model 737 airplanes in the worldwide fleet. The preamble now clearly states how costs are determined. Additionally, the cost estimate has been revised to include one additional manhour of labor required to perform testing on certain panels to ensure their proper operation.

Since issuance of the NPRM, Boeing has released Revision 1 to Alert Service Bulletin 737-52A1105, dated September 29, 1988, to include figures and formalize the original issue, which was issued telegraphically. The final rule has been revised to reflect Revision 1 of this service bulletin. Since the changes in Revision 1 are clarifying only, no additional burden is imposed by incorporating the later revision. Airplanes modified in accordance with the revision of the service bulletin dated August 16, 1988, do not require additional work.

The commenter also objected to the inclusion of airplanes prior to line number 1000, since the original issue of Boeing Alert Service Bulletin 737-52A1105 applied only to airplanes line numbers 1000 through 1587. The FAA notes that the service bulletin has since been revised to include all airplanes prior to line number 1588. The AD continues to include airplanes prior to line number 1000, since it cannot be positively determined that the relief panels on those airplanes were not erroneously sealed as well.

The commenter noted that certain operators may have refurbished the cockpit door several times on earlier airplanes and, since the manual instructions to accomplish this refurbishment have not been in error, there is no reason to believe that the possible production error would have been duplicated in the field during refurbishment. The FAA concurs that doors which were delivered with sealant may have been corected once in service; however, all such doors may not have been corrected, and the potential remains for sealant to be present.

Finally, the commenter objected to the provision in paragraph B. of the NPRM, requiring that the results of the inspection be reported to the FAA. The commenter believed such a reporting requirement is justified only when a rule is considered interim action and further information is required to complete rulemaking. The commenter suggested that the information could be provided informally if needed. The FAA does not concur. When the unsafe condition addressed by AD action appears to be attributed to a manufacturer's quality control (QC) problem, such a reporting requirement is instrumental in ensuring that FAA is able to gather as much information as possible as to the extent and nature of the QC problem or QC breakdown, especially in cases where this information may not be available through other established means. This information is necessary to ensure that proper corrective action is implemented. The final rule, therefore, retains the reporting requirement.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the change noted above.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

There are approximately 1,587 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 650 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $52,000.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

**List of Subjects in 14 CFR Part 39**

Aviation safety, Aircraft.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR Part 39.13) as follows:

**PART 39—[AMENDED]**

1. The authority citation for Part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

**§ 39.13 [Amended]**

2. By adding the following new airworthiness directive:

**Boeing:** Applies to Model 737 series airplanes, line number 001 through 1587, certificated in any category. Compliance required within 90 days after the effective date of this AD, unless previously accomplished.

To permit proper functioning of blowout panels in the cockpit door, accomplish the following:

A. Inspect for improper use of adhesive and remove adhesive, if necessary, in accordance with Boeing Alert Service Bulletin 737-52A1105, Revision 1, dated September 29, 1988.

B. Within 10 days after completion of the inspection required by paragraph A., above, submit a report of findings, positive or negative, to the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

**Note.**—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 10, 1989.

Issued in Seattle, Washington, on January 18, 1989.

**Steven B. Wallace,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-2953 Filed 2-7-89; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 157

**[Docket No. RM81-19]**

## Publication of Project Cost Limits Under Blanket Certificates

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order of the director, OPPR.

**SUMMARY:** Pursuant to the authority delegated by 18 CFR 375.370(e)(1), the Director of the Office of Pipeline and Producer Regulation computes and publishes the project cost and annual limits specified in Table I of § 157.208(d) and Table II of § 157.215(a) for each calendar year.

**EFFECTIVE DATE:** January 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Martin A. Burless, Jr., Assistant to Director, Division of Pipeline Certificates, OPPR (202) 357-9030.

### Order of the Director, OPPR

Issued: January 31, 1989.

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶61,216). Section 157.215(a) specified the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GNP implicit price deflator' publish by the Department of Commerce for the previous calendar year."

Pursuant § 375.307(e)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Pipeline and Producer Regulation. The cost limits for calendar years 1982 through 1989, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

### List of Subjects in 18 CFR Part 157

Natural gas.

**Kevin P. Madden,**

*Director, Office of Pipeline and Producer Regulation.*

Accordingly, 18 CFR Part 157 is amended as follows:

## PART 157—[AMENDED]

1. The authority citation for Part 157 continues to read as follows:

Authority: Natural Gas Act 15 U.S.C. 717-717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352(1982); E.O. 12009, 3 CFR 142(1978); Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432(1982), unless otherwise noted.

**§ 157.208 [Amended]**

2. Table I in § 157.208(d) is revised to read as follows:

TABLE I

| Year | Limit | |
|---|---|---|
| | Auto. proj. cost limit (col. 1) | Prior notice proj. cost limit (col. 2) |
| 1982 | $4,200,000 | $12,000,000 |
| 1983 | 4,500,000 | 12,800,000 |
| 1984 | 4,700,000 | 13,300,000 |
| 1985 | 4,900,000 | 13,800,000 |
| 1986 | 5,100,000 | 14,300,000 |
| 1987 | 5,200,000 | 14,700,000 |
| 1988 | 5,400,000 | 15,100,000 |
| 1989 | 5,600,000 | 15,600,000 |

**§ 157.215 [Amended]**

3. Table II in § 157.215(a) is revised to read as follows:

TABLE II

| Year | Limit |
|---|---|
| 1982 | $2,700,000 |
| 1983 | 2,900,000 |
| 1984 | 3,000,000 |
| 1985 | 3,100,000 |
| 1986 | 3,200,000 |
| 1987 | 3,300,000 |
| 1988 | 3,400,000 |
| 1989 | 3,500,000 |

[FR Doc. 89-2640 Filed 2-7-89; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 133

**[Docket No. 84P-0133]**

## Pasteurized Process Cheese Spread; Amendment of Standard of Identity

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the standards of identity for pasteurized process cheese spread and, by cross-

reference, three other cheese spread standards to permit the optional use of nisin. Nisin is an antimicrobial agent which prevents the outgrowth of *Clostridium botulinum* spores and toxin formation in packaged cheese. This action is taken to promote honesty and fair dealing in the interest of consumers by allowing increased flexibility in product formulation.

**DATES:** Effective April 10, 1989; compliance may begin March 13, 1989; objections and requests for a hearing by March 10, 1989.

**ADDRESS:** Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Carson, Center for Food Safety and Applied Nuturition (HFF-414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0110.

**SUPPLEMENTARY INFORMATION:**

## I. The Proposal

In the **Federal Register** of April 6, 1988 (53 FR 11312), FDA published a proposal based on a petition from Arthur A. Checchi, Inc., representing Aplin and Barrett, Ltd., of Trowbridge, Wiltshire, England, to amend the standards of identity for pasteurized process cheese spread (21 CFR 133.179) and, by cross-reference, pasteurized cheese spread (21 CFR 133.175), pasteurized cheese spread with fruits, vegetables, or meats (21 CFR 133.176), and pasteurized process cheese spread with fruits, vegetables, or meats (21 CFR 133.180), to provide for the optional use of nisin, an antimicrobial agent, to prevent outgrowth of *C. botulinum* spores and toxin formation in packaged cheese. A final rule affirming the generally recognized as safe (GRAS) status of nisin preparation, the ingredient in which nisin is carried, was also published in the **Federal Register** of April 6, 1988 (53 FR 11247).

Three comments, all in favor of the proposal, were received. All three comments supported the optional use of nisin as an additional safety measure that may permit variations in formulations used for pasteurized cheese spreads and pasteurized process cheese spreads. The comments agreed that the addition of nisin should not be used as a substitute for careful attention to good manufacturing practices.

After considering the comments received, the agency concludes that the proposed amendment is reasonable and that the amendment, as set out below, will promote honesty and fair dealing in the interests of consumers by allowing increased flexibility in product formulation. Accordingly, the agency is amending the standard of identity for pasteurized process cheese spread by adding paragraph (f)(11) to 21 CFR 133.179. By cross-reference to 21 CFR 133.179, the agency is also amending the standards of identity for pasteurized cheese spread (21 CFR 133.175), pasteurized cheese spread with fruits, vegetables, or meats (21 CFR 133.176), and pasteurized process cheese spread with fruits, vegetables, or meats (21 CFR 133.180) to permit the optional use of nisin.

## II. Economic Impact

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that a significant impact on a substantial number of small entities would not derive from this action. FDA has not received any new information or comments that would alter its previous determination.

## III. Objections

Any person who will be adversely affected by this regulation may at any time on or before March 10, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

### List of Subjects in 21 CFR Part 133

Cheese, Food grades and standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 133 is amended as follows:

## PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. The authority citation for 21 CFR Part 133 continues to read as follows:

**Authority:** Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)); 21 CFR 5.10 and 5.61.

2. Section 133.179 is amended by adding paragraph (f)(11) to read as follows:

**§ 133.179 Pasteurized process cheese spread.**

* * * * *

(f) * * *

(11) Nisin preparation in an amount which results in not more than 250 parts per million nisin in the food.

* * * * *

Dated: February 2, 1989.

**John M. Taylor,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 89-2982 Filed 2-7-89; 8:45 am]

BILLING CODE 4160-01-M

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## 21 CFR Part 178

**[Docket No. 86F-0171]**

## Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of α-butyl-Ω-hydroxypoly (oxyethylene)poly(oxypropylene), minimum molecular weight 1,000, and α-lauroyl-Ω-hydroxypoly(oxyethylene), having a minimum molecular weight of 200, as components of surface lubricants used in the manufacture of metallic articles intended to contact food. This action responds to a petition filed by Reynolds Metals Co.

**DATES:** Effective February 8, 1989; written objections and requests for a hearing by March 10, 1989.

**ADDRESS:** Written objections to the Dockets Management Branch (HFA-305), Food an Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of June 20, 1986 (51 FR 22566), FDA announced that a petition (FAP 6B3931) had been filed by Reynolds Metals Co., 2101 Reymet Road, Richmond, VA 23237, proposing that § 178.3910 *Surface lubricants used in the manufacture of metallic articles* (21 CFR 178.3910) be amended to provide for the safe use of α-tridecyl-Ω-hydroxypoly(oxyethylene) phosphate; α-butyl-Ω-hydroxypoly(oxyethylene)poly (oxypropylene) minimum molecular weight 1,000; and α-lauroyl-Ω-hydroxypoly(oxyethylene) in the manufacture of metallic articles intended to contact food.

FDA finds that one of the additives listed in the filing notice a α-tridecyl-Ω-hydroxypoly(oxyethylene) phosphate, is currently regulated under 21 CFR 178.3400 for the use requested in this petition. Therefore, the agency concludes that there is no need to regulate the additive under 21 CFR 178.3910, as requested by the petitioner. The agency also notes that the filing notice did not designate a minimum molecular weight of 200 for α-lauroyl-Ω-hydroxypoly(oxyethylene). This designation is being added in this final rule to better identify this additive.

FDA has reviewed the safety of the two remaining additives and the starting materials used to manufacture these additives, as well as the byproducts associated with the manufacturing process. Although the additives themselves have not been found to cause cancer, they have been found to contain minute amounts of unreacted ethylene oxide and 1,4-dioxane as byproduct impurities which are carried through the reaction process. Ethylene oxide and 1,4-dioxane have been shown to cause cancer in test animals. Residual amounts of reactants and manufacturing aids, such as these chemicals, are commonly found as contaminants in chemical products including food additives.

## I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) 21 U.S.C. 348(c)(3)(A)], the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." (H. Rept. 2284, 85th Cong., 2d Sess. 4 (1958).) This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer of Delaney clause of the Food Additives Amendment (section 409(c)(3)(A) of the act) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has refused to approve a use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic chemicals but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic constituent. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not been shown to cause cancer, but that contains carcinogenic impurities may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

## II. Safety of Petitioned Use

The agency estimated the daily intake of the petitioned use of the additives, α-butyl-Ω-hydroxypoly(oxyethylene) poly(oxypropylene), minimum molecular weight 1,000, and α-lauroyl-Ω-hydroxypoly(oxyethylene), minimum molecular weight of 200 (common name—polyethylene glycol-200 monolaurate), on the basis of several factors, including projected migration of the additives under the most severe conditions of use and the probable concentration of the additives in the daily diet from food-contact articles. The agency estimated that the daily intake of the two additives would be 0.18 milligram per person per day and 0.033 milligram per person per day, respectively.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of an additive whose use will result in such low exposure level (Refs. 1 and 2), and the agency has not required such testing here. However, the agency has reviewed available acute oral toxicity studies on α-lauroyl-Ω-hydroxypoly(oxyethylene) and acute oral toxicity studies and subchronic studies in the rat and dog on α-butyl-Ω-hydroxypoly(oxyethylene)poly (oxyprophylene). No adverse effects were reported in these studies.

Because these two additives have not been shown to cause cancer, the anticancer clause does not apply to them. However, FDA has evaluted the safety of these additives under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals ethylene oxide and 1,4-dioxane that may be present as impurities in the additives. Based on this evaluation, the agency has concluded that the additives are safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (e.g., 49 FR 13018, 13019; April 2, 1984). This risk evaluation of the carcinogenic impurities has two aspects: (1) Assessment of the worst-case exposure to the impurities from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

### *A. 1,4-Dioxane*

Based on the fraction of the daily diet that may be in contact with surfaces containing the additives, and assuming

that 1,4-dioxane is present at the limit of detection in the additives (Ref. 3), FDA estimated the hypothetical worst case exposure to 1,4-dioxane from the use of these two additives to be 2.1 nanograms per person per day. The agency used data from a carcinogenesis bioassay on 1,4-dioxane conducted for the National Cancer Institute (Ref. 4) to estimate the upper bound level of lifetime human risk from the proposed use of the additives. The results of the bioassay on 1,4-dioxane indicated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas and hepatocellular tumors in female rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee (the committee) reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,4-dioxane. The committee further concluded that an upper bound level of lifetime risk from potential exposure to 1,4-dioxane stemming from the proposed use of these two additives could be calculated from the bioassay.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additives.

Based on a worst case exposure of 2.1 nanograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from the potential exposure to 1,4-dioxane from the use of these two additives is $8\times10^{-11}$ or less than 1 in 12 billion (Ref. 5). Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to 1,4-dioxane is expected to be substantially less than the estimated daily intake, and, therefore, the calculated upper bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to 1,4-dioxane that might result from the proposed use of the additive.

*B. Ethylene Oxide*

Based on the fraction of the daily diet that may be in contact with surfaces containing the additives and assuming that ethylene oxide is present at the limit of detection in the additives (Ref. 3), FDA estimated the hypothetical worst case exposure to ethylene oxide from the use of these two additives to be 1.8 nanograms per person per day. The agency used data from a carcinogenesis bioassay on ethylene oxide conducted by the Institute of Hygiene, University of Mainz, Federal Republic of Germany (Ref. 6) to estimate the upper bound level of lifetime human risk from the proposed use of the additives. The results of the bioassay on ethylene oxide indicated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinoma of the forestomach and carcinoma in situ of the glandular stomach.

The committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on ethylene oxide. The committee further concluded that an upper bound level of human risk from potential exposure to ethylene oxide stemming from the proposed use of these two additives could be calculated from the bioassay.

Based on a worst case exposure of 1.8 nanograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from the potential exposure to ethylene oxide from the use of these two additives is $3\times10^{-9}$ or less than 1 in 330 million (Ref. 5). Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to ethylene oxide is expected to be substantially less than the estimated daily intake, and, therefore, the calculated upper bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to ethylene oxide that might result from the proposed use of these two additives.

*C. Need for Specifications*

The agency has also considered whether specifications are necessary to control the amount of ethylene oxide and 1,4-dioxane in the additives. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low levels at which ethylene oxide and 1,4-dioxane may be expected to remain as impurities following production of the additives, the agency would not expect these impurities to become components of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to these impurities, even under worst case assumptions, is very low, less than 1 in 12 billion for 1,4-dioxane and less than 1 in 330 million for ethylene oxide.

*D. Conclusion on Safety*

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use of these additives in lubricants used in the production of metallic articles for food-contact is safe, and that 21 CFR 178.3910(a)(2) should be amended to provide for the safe use of α-Buty1-Ω-hydroxypoly(oxyethylene) poly(oxypropylene) (CAS Reg. No. 9038-95-3) and α-Lauroyl-Ω-hydroxypoly (oxyethylene) (CAS Reg. No. 9004-81-3).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

## III. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogenicity Testing Programs," *in* "Food Safety: Where Are We?" Committee on Agriculture, Nutrition, and Forestry, United States Senate, p. 59, July 1979.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology," *in* "Chemical Safety Regulation and Compliance," Edited by F. Homburger and J. K. Marquis, S. Karger, New York, NY, pp. 24-33, 1985.

3. Memorandum dated June 4, 1987, from the Food Chemistry Branch to the Indirect Additives Branch.

4. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI-CG-TR-80, 1978.

5. Memorandum dated September 25, 1986, from the Quantitative Risk Assessment Committee of the Center for Food Safety and Applied Nutrition.

6. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide Upon Intragastric Administration to Rats," *British Journal of Cancer*, 46:924, 1982.

## IV. Objections

Any person who will be adversely affected by this regulation may at any time on or before March 10, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

### List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 178 is amended as follows:

## PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

**Authority:** Sec. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.3910 is amended in paragraph (a)(2) by alphabetically adding two new entries in the table to read as follows:

**§ 178.3910 Surface lubricants used in the manufacture of metallic articles.**

* * * * *

(a) * * *

(2) * * *

| List of substances | Limitations |
|---|---|
| * * * * * | |
| α-Butyl-Ω-hydroxypoly (oxyethylene)-poly (oxypropylene) (CAS Reg. No. 9038-95-3) produced by random condensation of a 1:1 mixture by weight of ethylene oxide and propylene oxide with butanol and having a minimum molecular weight of 1,000. | |
| * * * * * | |
| α-Lauroyl-Ω-hydroxypoly (oxyethylene) (CAS Reg. No. 9004-81-3) having a minimum molecular weight of 200. | |
| * * * * * | |

* * * * *

Dated: February 2, 1989.

**John M. Taylor,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 89-2981 Filed 2-7-89; 8:45 am]

BILLING CODE 4160-01-M

### 21 CFR Part 178

**[Docket No. 87F-0150]**

## Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidineethanol as a stabilizer for olefin polymers and ethylene-vinyl acetate copolymers complying with 21 CFR 177.1520 and 21 CFR 177.1350, respectively. This action is in response to a petition filed by Ciba-Geigy Corp.

**DATES:** Effective February 8, 1989; written objections and requests for a hearing by March 10, 1989.

**ADDRESS:** Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Julius Smith, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of May 20, 1987 (52 FR 18958), FDA announced that a food additive petition (FAP 7B3991) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidineethanol as a stabilizer for olefin polymers and ethylene-vinyl acetate copolymers complying with 21 CFR 177.1520 and 21 CFR 177.1350, respectively.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in 21 CFR 178.2010(b) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before March 10, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that

objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

**List of Subjects in 21 CFR Part 178**

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

## PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

**Authority:** Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.2010 is amended in paragraph (b) by revising the entry for "Dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidineethanol (CAS Reg. No. 65447–77–0)" in the table under the heading "Limitations" to read as follows:

**§ 178.2010 Antioxidants and/or stabilizers for polymers.**

* * * * *

(b) * * *

| Substances | Limitations |
|---|---|
| * * * * * | |
| Dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-pipendineethanol (CAS Reg. No. 65447-77-0). | For use only:<br>1. At levels not to exceed 0.3 percent by weight of olefin polymers complying with § 177.1520 of this chapter and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.<br>2. At levels not to exceed 0.3 percent by weight of ethylene-vinyl acetate copolymers complying with § 177.1350 of this chapter and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter. |
| * * * * * | |

Dated: January 27, 1989.

**Richard J. Ronk,**

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 89–2927 Filed 2–7–89; 8:45 am]

**BILLING CODE 4160–01–M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[FRL–3513–7; FL–019]**

### Approval and Promulgation of Implementation Plans; Florida Stack Height Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** In this action, EPA is approving revisions to the Florida state implementation plan (SIP) submitted to EPA on July 1, 1986. Florida has revised its SIP to include regulations for good engineering practice stack height. These regulations are equivalent to EPA requirements promulgated at Part 51 of Chapter I, Title 40 of the Code of Federal Regulations.

**EFFECTIVE DATE:** This action will be effective on April 10, 1989, unless notice is received within 30 days that adverse or critical comments will be submitted.

**ADDRESSES:** Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

**FOR FURTHER INFORMATION CONTACT:** Beverly T. Hudson, EPA Region IV, Air Programs Branch at above listed address, telephone (404) 347–2864 or FTS 257–2864.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of July 8, 1985 (50 FR 27892), EPA published final regulations to implement section 123 of the Clean Air Act (CAA), which regulates the manner in which dispersion of pollutants from a source may be considered in setting emission limitations. Pursuant to these regulations and the Clean Air Act Amendments of 1977, all states were required to (1) review and revise, as necessary, their state implementation plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations, and (2) review all existing emission limitations to determine whether these limitations have been affected by stack height credits above GEP or any other dispersion techniques. For any limitations so affected, states were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within nine months of promulgation.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, states were to prepare inventories of stacks greater than 65 meters in height and sources with emissions of sulfur dioxide ($SO_2$) in excess of 5000 tons per year. These limits correspond to the *de minimis* GEP stack height and the *de minimis* $SO_2$ emission exemption from prohibited dispersion techniques. These sources were then to be subjected to detailed review for conformance with the revised regulations. State submissions were to contain an evaluation of each stack and source in the inventory.

On July 1 and November 19, 1986, the Florida Department of Environmental Regulation submitted SIP revisions for good engineering practice stack height. Since the State formally revised its SIP, public hearings on these stack height rules were held on March 26 and August 20, 1986.

Florida's regulations limit the amount of stack height or dispersion credit (dispersion techniques) a source can claim in the process of establishing its emission limitation. Dispersion techniques include the use of stack heights greater than 65 meters and use of other techniques to increase the dispersion of emissions rather than continuously reducing emissions from a source. These regulations do not limit the physical stack height of any source,

or the actual use of dispersion techniques at a source, nor do they require any specific stack height for any source. Instead, they set limits on the maximum credit for stack height and other dispersion techniques to be used in ambient air modeling for the purpose of setting an emission limitation and calculating the air quality impact of a source. Sources are modeled at their actual physical stack height unless that height exceeds their GEP stack height. The regulations apply to all stacks not in existence on December 31, 1970, and all dispersion techniques implemented since December 31, 1970. The regulations apply to both new and existing sources, thereby satisfying requirements for state new source review regulations at 40 CFR 51.164 (old § 51.18(1)).

Florida has adopted definitions corresponding to EPA's GEP regulations. The State's regulations define a number of specific terms, including "emission limitation," "excessive concentration," "dispersion techniques" and "nearby." However, the definition of "emission limitation" does not include the phrase "established by the Administrator." Inclusion of this phrase in a State rule is not necessary.

In the case of an EPA emission limitation, not adopted by the Department, no clarification is necessary because the state would not be relying on such limitations. Florida's revision brings their existing regulation into conformance with the federal stack height rule, therefore we will approve the State's Regulations.

### Final Action

EPA has reviewed the submittal and found it to be in conformance with EPA's stack height requirements. Therefore, EPA is today approving Florida's regulations on stack height.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial issue and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective April 10, 1989.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 10, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

### List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Incorporation by reference.

Note: Incorporation by reference of the Florida State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 27, 1989.

**John A. Moore,**

*Acting Administrator.*

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

## PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

### Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(60) to read as follows:

**§ 52.520 Identification of plan.**

* * * * *

(c) * * *

(60) Stack height regulations were submitted on July 1 and November 19, 1986, by the Florida Department of Environmental Regulation.

(i) Incorporation by reference.

(A) Revised FAC 17-2.100(177), added FAC 17-2.100(178), added FAC 17-2.500(5)(h)6., and added FAC 17-2.510(4)(f), adopted on May 8, 1986.

(B) Revised FAC 17-2.100(61) and revised FAC 17-2.270, adopted on September 30, 1986.

(ii) Other material—none.

[FR Doc. 89-2419 Filed 2-7-89; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 180

[OPP-300159A; FRL 3515-2]

## Carbon Tetrachloride; Amendment to the Exemption From the Requirement of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule amends the exemption from the requirement of a tolerance for residues of carbon tetrachloride use on certain grains as a post-harvest fumigant by establishing an expiration date of July 31, 1990.

**DATES:** Effective on February 8, 1989. This exemption will expire on July 31, 1990.

**ADDRESS:** Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Room 3708 (A-110), 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Laszlo J. Madaras, Special Review and Reregistration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room. 1006, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-5778).

**SUPPLEMENTARY INFORMATION:** The residues resulting from use of carbon tetrachloride ($CCl_4$) as a post-harvest fumigant have been exempted, until now, from the requirement of a tolerance for the following grains: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat (§ 180.1005). This exemption was established in 1956 based on available toxicology studies and the conclusion that the 5 to 10 parts per million (ppm) residue levels which resulted in the consumed food did not have any toxicological significance.

EPA issued a proposed rule [OPP-300159], published in the **Federal Register** of October 14, 1987 (52 FR 38202), which proposed to remove the exemption from the requirement of a tolerance for residues of carbon tetrachloride in these grains because the registrations for all products used as fumigants for stored grain or for grain-milling equipment containing this chemical had been cancelled. The use of $CCl_4$ as a fumigant for stored grain has been prohibited since June 30, 1986. The use of $CCl_4$ as a fumigant for grain-milling equipment is covered by a food additive regulation. The food additive regulation for $CCl_4$, as well as that for

carbon disulfide and ethylene dichloride for fumigation of grain milling equipment, is being revoked as discussed in a related document published elsewhere in this issue of the **Federal Register**. Also revoked, as discussed in that related document, are the exemptions from the requirement of a tolerance for carbon disulfide, ethylene dichloride and chloroform used to fumigate stored grains.

The Agency invited comments for a period of 60 days after publishing and proposed rule to revoke the exemption from the requirement of a tolerance for $CCl_4$, and responses were received from the following organizations and trade associations:

1. Grocery Manufacturers of America (GMA),
2. National Food Processors Association (NFPA),
3. Grain Elevator and Processing Society (GEAPS),
4. Terminal Elevator Grains Merchants Association (TEGMA),
5. National Grain and Feed Association (NGFA),
6. American Bakers Association (ABA),
7. Millers' National Federation (MNF).

The comments were unanimously against the proposed removal of the exemption from the requirement of tolerance for $CCl_4$, and expressed several concerns.

Several of the associations believed that the existence of low levels of $CCl_4$ residues on grain, in the absence of an exemption from tolerance, in effect a "zero tolerance," could be misconstrued as a public health risk. This misconception could lead State regulators to establish nonuniform action levels and take enforcement action on grain lots containing residues from legal use of the chemical. (The commentors agreed with the Agency that the public health risk is low.) Several of the trade associations noted that data on $CCl_4$ grain residues had been provided to EPA and that this data should be used to establish a tolerance or action level.

The Agency continues to believe that the establishment of a tolerance or an action level is not warranted because long-term dietary risks from "pipeline" residues remaining in grain-based consumer products are negligible, and these risks will be further diminished in time through normal dissipation since all legal use of the fumigant ended in June 1986 and there is little likelihood of the public misconstruing the negligible health risk involved. The Agency maintains that any State regulatory action is likely to be taken in conjunction with State Health Departments. To ensure that such health personnel were aware of the Agency's proposal, the proposal to revoke the tolerance exemptions for carbon tetrachloride was sent to department of health directors in certain States who are members of the Association of State and Territorial Health Organizations (ASTHO). No comments were received from members who were specifically sent the proposal, or from any other health departments during the formal comment period. State pesticide regulatory officials, who routinely see and comment on Agency proposals, also did not comment on the revocation. Since there has been no expressed concern by the State Health Agencies or other State regulatory officials about the risks of $CCl_4$ from exposure to treated grain and/or a need for a tolerance level, it is extremely unlikely that States would take enforcement action on grain after the exemption expires.

GMA and other associations have provided $CCl_4$ residue data which has been useful to the Agency. The data indicate that residues of $CCl_4$ in or on raw grain treated prior to June 30, 1986, the last day of legal use of the fumigant, ranged from less than 10 ppb to 30 ppm. For intermediate grain products, e.g., flour, the $CCl_4$ levels ranged from less than 10 ppb to 10 ppm. Ready-to-eat grain products contained $CCl_4$ residues in the range of less than 10 ppb to 50 ppb. Available residue data on treated grain indicate that $CCl_4$ residue levels are decreasing with time; however, the Agency does not consider these data adequate to accurately predict the rate of $CCl_4$ decline in treated grain or to establish tolerance or action levels.

The Federal Grain Inspection Service of USDA has provided the most recent data which showed that during the first quarter of 1988, the maximum residue found in 128 raw grain samples tested was estimated to be 1258 ppb $CCl_4$; the average concentration was 123 ppb $CCl_4$. During the third quarter of 1988, the maximum residue found in 90 raw grain samples tested was estimated to be 193 ppb $CCl_4$; the average concentration was 17 ppb $CCl_4$. The Agency expects levels to continually decrease in time. As noted previously, the pool of available data are inadequate to establish a tolerance level. If the data were used to establish a tolerance, it would have to be set high enough to cover all possible residues from legally treated grain, and would have to be set at a point much higher than presently existing average residue levels. The Agency does not believe that setting a tolerance or action level at such high levels would be warranted or would be in the best interest of public health protection.

Another major concern of several commentors was the potential economic impact on the grain industry and the effect on the orderly marketing of grain if the Agency finalized its revocation. The Grain Elevator and Processing Society believed that purchasers of grain intended for human consumption would insist on grain being tested for $CCl_4$ residues and that purchasers would not be willing to buy grain with detectable residues or would do so only at a substantial discount. They also noted that few if any grain-handling companies have the means to rapidly test for $CCl_4$ residues (a capacity needed to facilitate shipping), and they noted that as much as 50 percent of the 1986 wheat crop had detectable $CCl_4$ residues. Also, several commentors questioned whether the agreement was legal and binding between EPA and FDA, whereby FDA would not seize grain legally treated on or before June 30, 1986, unless residues posed a public health concern, once exemptions from tolerance requirements were removed. Commentors questioned the meaning of "level of public health concern" as well as how it would be determined that grain had or had not been legally treated.

It is not EPA's intention or desire to create a situation where the distribution and marketing of grain food commodities are disrupted when there is negligible dietary risk in consumer products processed from grain treated with $CCl_4$. In order for events to develop in the manner suggested by the commentors, i.e., individual States setting their own differing action levels and hence creating a major disruption in grain marketing, States would have to perceive a public health risk situation that demanded regulatory action. As noted earlier, the Agency does not believe that this is likely. With regard to the concern about the legality and the enforceability of the FDA agreement, the Agency has no reason to believe that FDA would not exercise its enforcement discretion in the manner specified.

The Agency is, however, sensitive to the concerns of the grain industry and wishes to avoid an unnecessary negative impact on the industry while at the same time ensuring that $CCl_4$ fumigant levels continue their present rate of decline and eventual dissipation. Therefore, EPA believes it prudent to delay the removal of the exemption from the requirement for a tolerance for $CCl_4$. The Agency will amend 40 CFR 180.1005 to expire on July 31, 1990, 4 years after the last legal application of the fumigant.

There is no expectation that during the time that the tolerance exemptions continue until July 31, 1990, the presence of declining levels of $CCl_4$ would pose a risk to the public health. EPA does not feel that the removal of $CCl_4$ tolerance exemptions more than 4 years after last legal application will have any significant economic impact since detectable levels are continually declining, and according to the representatives of the grain industry, the outer limit of grain storage is 5 years.

Any person adversely affected by this regulation amending 40 CFR 180.1005 should file written objections with the Hearing Clerk at the address given above within 30 days after the date of publication of this regulation in the **Federal Register**. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

**Executive Order 12291**

Under Executive Order 12291, the Agency must determine whether a regulatory action is "Major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this regulatory action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This rule has been reviewed by the Office of Management and Budget as required by section 3 of Executive Order 12291.

**Regulatory Flexibility Act**

This rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165, 5 U.S.C. 601 *et seq.*), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The revocation of the exemption from the requirement of a tolerance after July 31, 1990, would potentially affect firms in the grain-milling and bakery products industries as well as grain farmers. Products found to contain $CCl_4$ may be subject to enforcement action after this date. However, since FDA has agreed not to take enforcement action unless residue levels are at a level of public health concern or residues resulted from treatment after June 30, 1986, it is expected that little or no economic impact would occur when the tolerance exemption is revoked.

Accordingly, I certify that this regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

**List of Subjects in 40 CFR Part 180**

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 31, 1989.

**Victor J. Kimm,**

*Acting Assistant Administrator for Pesticides and Toxic Substances.*

Therefore, 40 CFR Part 180 is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a.

2. Section 180.1005 is revised to read as follows:

**§ 180.1005 Carbon tetrachloride; exemption from the requirement of a tolerance.**

The insecticide carbon tetrachloride is exempted from the requirement of a tolerance for residues, when used as a fumigant after harvest, for the following grains: Barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat. This exemption will expire on July 31, 1990.

[FR Doc. 89–2965 Filed 2–7–89; 8:45 am]

BILLING CODE 6560–50–M

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**40 CFR Part 180**

[PP 8E3620/R996; FRL 3515–5]

## Pesticide Tolerance for 3-(3,5-Dichlorophenyl)-5-Ethenyl-5-Methyl-2,4-Oxazolidinedione

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a tolerance for the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione (hereafter referred to in the preamble as "vinclozolin") and its metabolites containing the 3,5-dichloroaniline moiety in or on the raw agricultural commodity Belgian endive tops (chicory tops) at 5 parts per million (ppm). BASF Wyandotte Corp. petitioned for this tolerance.

**EFFECTIVE DATE:** February 8, 1989.

**ADDRESS:** Written objections, identified by the document control number [PP 8E3620/R996], may be submitted to: Public Docket and Freedom of Information Section, Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:**

By mail:

Lawrence J. Schnaubelt, Acting Product Manager (PM) 21, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: RM. 227 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1900.

**SUPPLEMENTARY INFORMATION:** EPA issued a proposed rule, published in the **Federal Register** of October 20, 1988 (53 FR 41209), in which it was announced that BASF Wyandotte Corp., Agricultural Chemical Division, 110 Cherry Hill Rd., Parsippany, NJ 07454, had submitted pesticide petition 8E3620 to EPA proposing the establishment of a tolerance for the combined residues of the fungicide vinclozolin and its metabolites in or on the raw agricultural commodity Belgian endive tops (chicory tops) at 5.0 parts per million.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance

requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

**List of Subjects in 40 CFR Part 180**

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 6, 1989.

**Douglas D. Campt,**

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR Part 180 is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.380(a) is amended by adding and alphabetically inserting the entry for the raw agricultural commodity Belgian endive tops, to read as follows:

**§ 180.380 3-(3,5-Dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione; tolerances for residues.**

(a) * * *

| Commodities | Parts per million |
|---|---|
| Belgian endive, tops | 5.0 |
| * * * * * | |

[FR Doc. 89-2967 Filed 2-7-89; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Parts 180 and 185**

**[OPP-300155A, 300156A, and 300158A; FRL 3515-3]**

## Carbon Disulfide, Carbon Tetrachloride and Ethylene Dichloride; Revocation of Food Additive Regulations Carbon Disulfide, Ethylene Dichloride, and Chloroform; Removal of Exemption From the Requirement of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule removes certain food additive regulations for carbon disulfide, carbon tetrachloride, and ethylene dichloride. The rule also removes the exemption from the requirement of a tolerance for the pesticide chemicals carbon disulfide, ethylene dichloride and chloroform. This EPA-initiated regulatory action removes the food additive regulations and exemptions for which related pesticide uses have been cancelled.

**DATE:** Effective on February 8, 1989.

**ADDRESS:** Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Room 3708 (A-110), 401 M Street SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** By mail:

Laszlo J. Madaras, Special Review and Reregistration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 1006, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-5778).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of October 14, 1987, EPA issued four proposed rules: OPP-300155 (52 FR 38198), OPP-300156 (52 FR 38199), OPP-300158 (52 FR 38200), and OPP-300159 (52 FR 38202) to remove the food additive regulations for the chemicals carbon disulfide, carbon tetrachloride, and ethylene dichloride, and the exemption from the requirement of a tolerance for residues of the chemicals carbon disulfide, ethylene dichloride and chloroform on grains and grain-milling equipment since the registration for products used as fumigants containing these chemicals had been cancelled. The proposed removal of the exemption from the requirement of tolerance for the pesticide chemicals carbon disulfide (40 CFR 180.1004), ethylene dichloride (40 CFR 180.1007), and chloroform (40 CFR 180.1009) is found in OPP-300155; the removal of exemptions from the requirement of tolerance for the pesticide chemical carbon tetrachloride (40 CFR 180.1005) is found in OPP-300159; the proposed removal of food additive regulations for carbon disulfide and ethylene dichloride in 21 CFR Part 193 for fumigation of grain-mill machinery and processed grains used in the production of fermented malt beverages is found in OPP-300156; and removal of food additive regulations for carbon tetrachloride in 21 CFR Part 193 for fumigation of grain-mill machinery and processed grains in the production of fermented malt beverages is found in OPP-300158.

Food additive regulations in 21 CFR Part 193 have been redesignated into 40 CFR Part 185 by a recodification document published in the **Federal Register** of June 29, 1988 (53 FR 24666). Therefore, several of the rules have been combined. The Agency is publishing two rules: one final rule, found elsewhere in this issue of the **Federal Register**, which amends the exemption for the requirement for a tolerance for carbon tetrachloride, and this final rule, which combines all other proposed revocations mentioned above.

No comments were received in response to the proposed revocations of the food additive regulations for carbon tetrachloride, carbon disulfide, and ethylene dichloride. Therefore, based on the information discussed in detail in the cited **Federal Register** documents and lack of public comments, the Agency is removing the food additive regulations in 40 CFR 185.3475(a) for use of carbon disulfide, carbon tetrachloride and ethylene dichloride as fumigants for grain-mill machinery.

The only comment on the proposed revocation of the exemption from tolerance for carbon disulfide, ethylene dichloride and chloroform was submitted by the Grocery Manufacturers of America (GMA), who agreed with the Agency's proposal. The GMA as well as several other food processing and grain handling organizations opposed the proposed revocation of the exemption for a tolerance for carbon tetrachloride. These comments are addressed in a related final rule document [OPP-300159A], published elsewhere in this issue of the **Federal Register.**

Therefore, the Agency is removing the exemption from the requirement of a tolerance for carbon disulfide (40 CFR 180.1004), ethylene dichloride (40 CFR 180.1007), and chloroform (40 CFR 180.1009) for residues on barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat resulting from the use of these pesticides as fumigants for grain stored in bulk, since the registrations of all products containing these chemicals in treated grain have been cancelled.

Residue data currently available to the Agency indicate that carbon disulfide, ethylene dichloride and chloroform are not particularly persistent in the environment and these chemicals had not been used to fumigate grain in the several years prior to June 30, 1986, when use was prohibited. EPA does not anticipate significant residues resulting from the last allowable treatment of grain stocks, on or before June 30, 1986.

Any person adversely affected by these regulations should file written objections with the Hearing Clerk at the address given above within 30 days after the date of publication of this regulation in the **Federal Register.** Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must

state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of the revocation of the exemptions from tolerances for these chemicals.

**Executive Order 12291**

Under Executive Order 12291, the Agency must determine whether a regulatory action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this regulatory action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This rule has been reviewed by the Office of Management and Budget as required by section 3 of Executive Order 12291.

**Regulatory Flexibility Act**

This rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1165, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The removal of exemptions from tolerances would potentially affect firms in the grain-milling and bakery products industries as well as grain farmers.

Accordingly, it is certified that these regulations do not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

**List of Subjects in 40 CFR Part 180**

Administrative practice and procedures, Agricultural commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 31, 1989.

**Victor J. Kimm,**

*Acting Assistant Administrator for Pesticides and Toxic Substances.*

Therefore, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

## PART 180—[AMENDED]

1. In Part 180:

a. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

**§ 180.1004 [Removed]**

b. By removing § 180.1004 *Carbon disulfide; exemption from the requirement of a tolerance.*

**§ 180.1007 [Removed]**

c. By removing § 180.1007 *Ethylene dichloride; exemption from the requirement of a tolerance.*

**§ 180.1009 [Removed]**

d. By removing § 180.1009 *Chloroform; exemption from the requirement of a tolerance.*

## PART 185—[AMENDED]

2. In Part 185:

a. The authority citation for Part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 185.3475, paragraph (a) is revised to read as follows:

**§ 185.3475 Fumigants for grain-mill machinery.**

* * * * *

(a) The fumigant consists of methyl bromide.

* * * * *

c. In § 185.3480, paragraphs (a) and (b) are revised to read as follows:

**§ 185.3480 Fumigants for processed grains used in production of fermented malt beverages.**

* * * * *

(a) Methyl bromide. Total residues of inorganic bromides (calculated as Br) from the use of this fumigant shall not exceed 125 parts per milion.

(b) Methyl bromide is used to fumigate corn grits and cracked rice in the production of fermented malt beverages.

* * * * *

[FR Doc. 89-2966 Filed 2-7-89; 8:45 am]

BILLING CODE 6560-50-M

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## 40 CFR Parts 180, 185, and 186

**[PP 7F3476 and FAP 7H5524/R1006; FRL 3515-4]**

## Pesticide Tolerances For Myclobutanil

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** These rules establish tolerances for residues of the fungicide myclobutanil in or on certain raw agricultural commodities, food additives, and feed additives. These regulations, to establish maximum permissible levels of residues of myclobutanil in or on the commodities, food additives, and feed additives, were requested in petitions submitted by Rohm and Haas Co.

**EFFECTIVE DATE:** January 26, 1989.

**ADDRESS:** Written objections, identified by the document control number [PP 7F3476 and FAP 7H5524/R1006], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Room M-3708, 401 M Street SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:**

Lawrence J. Schnaubelt, Acting Product Manager (PM) 21, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1900

**SUPPLEMENTARY INFORMATION:** EPA issued a proposed rule, published in the **Federal Register** of December 30, 1988 (53 FR 53019), which announced that Rohm and Haas Co. of Independence Mall West, Philadelphia, PA 19105, submitted pesticide petition (PP) 7F3476 and food additive petition (FAP) 7H5524 to EPA proposing the establishment of tolerances for the fungicide myclobutanil [alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] and its metabolites containing both the chlorophenyl and triazole rings in or on the following: Apples (whole fruit) at 0.5 part per million (ppm), wet apple pomace at 1.0 ppm, and dry apple pomace at 5.0 ppm; grapes (whole fruit) at 1.0 ppm, wet grape pomace at 2.0 ppm, dry grape pomace at 10.0 ppm, raisins at 10.0 ppm, and raisin waste at 25 ppm; milk at 0.1 ppm; meat and meat by-products (mbyp) (except liver) at 0.04 ppm; liver of cattle, goats, hogs, horses, and sheep at 0.5 ppm; and eggs at 0.04 ppm.

Subsequently, Rohm and Haas amended the petitions by: Reducing the tolerance for eggs to 0.02 ppm; and the tolerance for liver of cattle, goats, hogs, horses, and sheep to 0.3 ppm; and milk to 0.05 ppm; proposing increases in the tolerances for meat and meat by-products (except liver) to 0.05 ppm; amending the tolerance expression of meat and meat by-products (except liver) to include fat and to specify cattle, goats, hogs, horses, and sheep; combining the tolerances for residues in apple pomace (wet and dry) at 5.0 ppm and grape pomace (wet and dry) at 10.0 ppm; proposing a tolerance for meat, fat, and meat by-products of poultry at 0.02 ppm; and by amending the tolerance expressions to specify the metabolite(s)

to be regulated in the raw and processed commodities.

Former Parts 193 and 561 of Title 21 of the Code of Federal Regulations, in which FAP 7H5524 proposed regulations, have been recodified into 40 CFR Parts 185 and 186, respectively, by a document published in the **Federal Register** of June 29, 1988 (53 FR 24666).

There were no comments received in response to the proposed rule.

The data submitted in support of the petitions and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

**List of Subjects in 40 CFR Parts 180, 185, and 186**

Administrative practice and procedures, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 26, 1989.

**Douglas D. Campt,**

*Director, Office of Pesticide Programs.*

Therefore, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

## PART 180—[AMENDED]

1. In Part 180:

a. The authority citation for Part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a.

b. New § 180.443 is added, to read as follows:

**§ 180.443 Myclobutanil; tolerances for residues.**

(a) Tolerances are established for the combined residues of the fungicide myclobutanil [alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] and its metabolite alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (free and bound) in or on:

| Commodity | Parts per million |
|---|---|
| Apples | 0.5 |
| Grapes | 1.0 |

(b) Tolerances are established for the combined residues of the fungicide myclobutanil [alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites, alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] (free and bound) and alpha-(4-chlorophenyl)-alpha-(3,4 dihydroxybutyl)-1*H*-1,2,4-triazole-1-propanenitrile, in:

| Commodity | Parts per million |
|---|---|
| Milk | 0.05 |

(c) Tolerances are established for the combined residues of the fungicide myclobutanil [alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] and its metabolite alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free) in:

| Commodity | Parts per million |
|---|---|
| Cattle, fat | 0.05 |
| Cattle, liver | 0.3 |
| Cattle, meat | 0.05 |
| Cattle, mbyp | 0.05 |
| Eggs | 0.02 |
| Goats, fat | 0.05 |
| Goats, liver | 0.3 |
| Goats, meat | 0.05 |
| Goats, mbyp | 0.05 |
| Hogs, fat | 0.05 |
| Hogs, liver | 0.3 |
| Hogs, meat | 0.05 |
| Hogs, mbyp | 0.05 |
| Horses, fat | 0.05 |
| Horses, liver | 0.3 |
| Horses, meat | 0.05 |
| Horses, mbyp | 0.05 |
| Poultry, fat | 0.02 |
| Poultry, meat | 0.02 |
| Poultry, mbyp | 0.02 |
| Sheep, fat | 0.05 |
| Sheep, liver | 0.3 |
| Sheep, meat | 0.05 |
| Sheep, mbyp | 0.05 |

## PART 185—[AMENDED]

2. In Part 185:

a. The authority citation for Part 185 continues to read as follows:

**Authority:** 21 U.S.C. 348.

b. By revising § 185.4350, to delete the existing temporary food additive tolerance on raisins and replace it with a regulation as follows:

**§ 185.4350 Myclobutanil.**

Tolerances are established for combined residues of the fungicide myclobutanil [alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] and its metabolite alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free and bound) in or on the following food additive commodity:

| Commodity | Parts per million |
|---|---|
| Raisins | 10.0 |

## PART 186—[AMENDED]

3. In Part 186:

a. The authority citation for Part 186 continues to read as follows:

**Authority:** 21 U.S.C. 348.

b. By revising § 186.4350, to delete the existing temporary feed additive tolerances on apple pomace, grape pomace, and raisin waste and replace them with a regulation, to read as follows:

**§ 186.4350 Myclobutanil.**

Tolerances are established for combined residues of the fungicide myclobutanil [alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] and its metabolite alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free and bound) in or on the following feed additive commodities:

| Commodities | Parts per million |
|---|---|
| Apple pomace (wet and dry) | 5.0 |
| Grape pomace (wet and dry) | 10.0 |
| Raisin waste | 25.0 |

[FR Doc. 89-2968 Filed 2-7-89; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 87-616; RM-6075]**

### Radio Broadcasting Services; Emporia, KS

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots FM Channel 258A to Emporia, Kansas, in response to a petition filed by Emporia Broadcasting. There is a site restriction 6 kilometers (3.7 miles) southwest of the community. The coordinates for Channel 258A are 38-22-09 and 96-13-54. The Notice proposed allotment of Channel 241A to Emporia, but to prevent foreclosure of possible expanded service in Derby, Kansas, a staff study determined that Channel 258A was available for use at Emporia, providing a third service to the community. With this action, this proceeding is terminated.

**DATES:** Effective March 20, 1989. The window period for filing applications will open on March 21, 1989, and close on April 20, 1989.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 87-616, adopted January 18, 1989, and released February 2, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. In § 73.202(b), the Table of FM Allotments is amended under Kansas by adding Channel 258A at Emporia.

Federal Communications Commission.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2933 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

**[MM Docket No. 88-283; RM-6280]**

### Radio Broadcasting Services; Port Gibson, MS

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots FM Channel 263A to Port Gibson, Mississippi, as that community's first FM broadcast service, in response to a petition filed by Evan Doss, Jr. The coordinates for Channel 263A are 31-57-30 and 90-59-00. With this action, this proceeding is terminated.

**DATES:** Effective March 20, 1989. The window period for filing applications will open on March 21, 1989, and close on April 20, 1989.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88-283, adopted January 18, 1989 and released February 2, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. In § 73.202(b), the Table of FM Allotments under Mississippi is amended by adding Channel 263A at Port Gibson.

Federal Communications Commission.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2934 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

**[MM Docket No. 88-311; RM-6230]**

### Radio Broadcasting Services; Richton, MS

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots FM Channel 243A to Richton, Mississippi, in response to a petition filed by Richton Broadcasting Company. The allotment could provide Richton with its first FM broadcast service. The coordinates for Channel 243A at Richton are 31-16-12 and 88-56-18. With this action, this proceeding is terminated.

**DATES:** Effective March 20, 1989. The window period for filing applications will open on March 21, 1989, and close on April 20, 1989.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88-311, adopted December 21, 1988, and released February 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. In § 73.202(b), the Table of FM Allotments is amended under Mississippi, by adding Richton, Channel 243A.

Federal Communications Commission.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2935 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 88-452; RM-6312]**

## Radio Broadcasting Services; Garapan, Saipan

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Inter-Island Communications, Inc., substitutes Channel 280C2 for Channel 230A at Garapan, Saipan, and modifies its license for Station KZMI(FM) to specify operation on the higher powered channel. Channel 280C2 can be allotted to Garapan, Saipan, in compliance with the Commission's minimum distance separation requirements. The coordinates for this allotment are North Latitude 15-12-26 and East Longitude 145-43-20. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** March 20, 1989.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88-452, adopted December 21, 1988, and released February 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Garapan, Saipan, is revised by removing Channel 230A and adding Channel 280C2.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2936 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 88-197; RM-6297]**

## Radio Broadcasting Services; Crockett, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 224C2 for Channel 224A at Crockett, Texas, and modifies the license of Station KIVY-FM to specify operation on the higher class co-channel, at the request of James H. Gibbs, d/b/a Pioneer Broadcasting. Action taken herein could provide a second wide coverage area FM service at Crockett. The upgraded facilities can be constructed at the current transmitter site of Station KIVY-FM consistent with the Commission's minimum distance separation requirements. The coordinates are 31-18-20 and 95-27-06. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** March 20, 1989.

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88-197, adopted December 21, 1989, and released February 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Texas, by removing Channel 224A and adding Channel 224C2 at Crockett.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2937 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 88-256; RM-6298]**

## Radio Broadcasting Services; Jasper, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 274C2 for Channel 272A at Jasper, Texas, and modifies the license of Station KWYX(FM) to specify operation on the higher class channel, at the request of KTXJ Radio, Inc. Action taken herein could provide a second wide coverage area FM service at Jasper. A site restriction of 23.7 kilometers (14.7 miles) north of the community is required at coordinates 31-07-54 and 93-56-28. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** March 20, 1989.

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88-256, adopted January 18, 1989, and released February 2, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Texas, by

removing Channel 272A and adding Channel 274C2 at Jasper.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2938 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 88-177; RM-6164]**

## Radio Broadcasting Services; Ellensburg, WA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 237C2 for Channel 237A at Ellensburg, Washington, and modifies the license of Station KXLE-FM to specify operation on the higher class co-channel, at the request of KXLE, Inc. The community could receive its second wide coverage area FM service. The station's current transmitter site can be used for the channel change, at coordinates 47-00-00 and 120-31-40. Canadian government has concurred in the allotment. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** March 20, 1989.

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634-6530.

**SUPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88-177, adopted January 18, 1989, and released February 2, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

## PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments is amended, under Washington, by removing Channel 237A and adding Channel 237C2 at Ellensburg.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2939 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 88-24; RM-6092]**

## Radio Broadcasting Services; West Pasco or Pasco, WA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 267A to Pasco, Washington, as that community's second local FM service, at the request of West Pasco Fine Arts Radio. A site restriction of 2.4 kilometers (1.5 milies) west of the community is required at coordinates 46-13-41 and 119-07-32. Canadian concurrence has been received. The allotment has been made to Pasco instead of West Pasco, since insufficient evidence was presented to conclude the community status of West Pasco for allotment purposes. With this action, this proceeding is terminated.

**DATES:** Effective March 20, 1989. The window period for filing applications will open on March 21, 1989, and close on April 20, 1989.

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88-24, adopted December 21, 1988, and released February 1, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

## PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 US..C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments is amended, under Washington, by adding Channel 267A at Pasco.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2940 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

# DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 675

**[Docket No. 81131-9019]**

## Groundfish of the Bering Sea and Aleutian Islands Area

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of closure; request for comments.

**SUMMARY:** The Director, Alaska Region, NMFS (Regional Director), has determined that the shares of the total allowable catch (TAC) for sablefish that will be allocated in part of the Bering Sea for the 1989 fishing year are needed as bycatch amounts to support other directed fisheries for groundfish in the Bering Sea by all gear types during the 1989 fishing year. The Secretary of Commerce, therefore, is prohibiting directed fishing for sablefish in part of the Bering Sea using all gear types during the 1989 fishing year. This action is necessary to prevent wastage of sablefish that would otherwise occur if sablefish quotas were reached prematurely. This action is intended to carry out objectives contained in the fishery management plan used for managing groundfish resources in the Bering Sea and Aleutian Islands.

**DATES:** Effective February 3, 1989. Comments are invited until February 21, 1989.

**ADDRESS:** Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

**FOR FURTHER INFORMATION CONTACT:** Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7230.

**SUPPLEMENTARY INFORMATION:** This notice addresses the need to close the directed sablefish fishery by all gear types in the Bering Sea Subarea within the Bering Sea and Aleutians Islands management area. Regulations pertaining to management of the Bering Sea Subarea are at 50 CFR Part 675. These regulations implement the FMP

for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

Sablefish are caught in directed fisheries, and are also caught incidentally while fishing for other groundfish species. Amounts of incidental catches of sablefish must be considered when managing total allowable catches (TACs) available in 1989. The Secretary is establishing TACs for each of the target groundfish species, including sablefish, after having counsulted with the North Pacific Fishery Management Council (Council). The Council met during December 5–9, 1988 and adopted TACs for each of the target species, and is recommending that the Secretary implement these for the 1989 fishing year, which begins January 1. For sablefish, the Council recommended a TAC for the Bering Sea Subarea of 2,380 mt.

All the amounts currently allocated to all gear types in the Bering Sea Subarea are expected to be caught as bycatch while fishing for other groundfish species. The Secretary of Commerce, therefore, is closing the Bering Sea Subarea to all directed fishing for sablefish, effective January 1, 1989.

Under § 675.20(a)(7) of regulations governing the Bering Sea and Aleutian Islands Area groundfish fishery, when the Regional Director determines that the amount of TAC of any large species or of the "other species" category remaining during the fishing year is necessary for bycatch in the fisheries for other groundfish species during the remainder of the fishing year, the Secretary will publish as a notice in the **Federal Register** prohibiting directed fishing for that species or the "other species" category for the remainder of the fishing year. Since sablefish bycatches would be retainable, wastage is reduced.

Trawl vessels as well as other gear types conducted directed fisheries for sablefish in the Bering Sea Subarea in 1988. The Secretary closed the directed sablefish fishery in Bering Sea Subarea on June 11, 1988 (53 FR 22328, June 15, 1988). Further catches were required to be discarded at sea.

The Regional Director finds that directed fishing by vessels using all gear types in Bering Sea Subarea of the Bering Sea and Aleutian Islands management unit would be likely to occur early in the 1989 fishing year. The Regional Director's findings are based on two facts. First, the price paid to fishermen for sablefish in 1988 averaged about $1.70 per pound, and will likely be this much in 1989, which will continue to attract significant effort early in the year. Second, the Council adopted a management policy at its December 1988 meeting which rejects the current access system in the sablefish fishery. The Council intends to develop an alternative management system which would rationalize future participation in the sablefish fishery. Additional numbers of fishermen are likely to participate in the 1989 sablefish fishery to gain possible future rights.

Absent this closure, available amounts of sablefish would be caught early, and force the Secretary to declare sablefish a prohibited species. Additional catches could not be retained, resulting in their being discarded at sea which would be a waste of a commercially valuable resource. Under § 675.20(a)(7), the Secretary is prohibiting directed fishing for sablefish, defined at § 675.2, in the Bering Subarea of the Bering Sea and Aleutian Islands management area during the 1989 fishing year.

Public comments on this notice of closure may be submitted to the Regional Director at the address above until February 21, 1989.

## Classification

This action is taken under § 675.20 and complies with Executive Order 12291.

## List of Subjects in 50 CFR Part 675

Fisheries, Reporting and Recordkeeping requirements.

Dated: February 3, 1989.

**Richard H. Schaefer,**

*Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 89–2989 Filed 2–3–89; 4:34 pm]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 54, No. 25
Wednesday, February 8, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 905

[Docket No. AO-85-A9; FV-88-102]

## Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Recommended Decision on Proposed Amendment of Marketing Agreement and Order No. 905

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule and opportunity to file exceptions.

**SUMMARY:** This recommended decision invites written exceptions regarding proposed amendments to Marketing Agreement and Order 905, covering Florida oranges, grapefruit, tangerines, and tangelos. The amendments would: (1) Classify Canada and Mexico as export markets rather than domestic markets as they are now; (2) define the Interior District and the Indian River District in the marketing order; (3) authorize changing the eligibility requirements for grower members on the Citrus Administrative Committee; (4) authorize the committee to borrow money to fund committee operations in emergency situations; and (5) provide for the conduct of periodic referenda on continuance of the order every six years. The proposed amendments are designed to improve the administration and functioning of the marketing order.

**DATE:** Written exceptions must be filed by March 10, 1989.

**ADDRESS:** Written exceptions should be filed with the Hearing Clerk, United States Department of Agriculture, Room 1079, South Building, Washington, DC 20250. Four copies of all written exceptions should be submitted, and they will be made available for public inspection during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone: 202-475-3918, or John R. Toth, Officer-in-Charge, Southeast Marketing Field Office, Florida Citrus Building, 500 3rd Street NW., P.O. Box 2276, Winter Haven, Florida 33883-2276, telephone: 813-299-4770. Copies of this decision may be obtained from either of the above named individuals.

**SUPPLEMENTARY INFORMATION:** Prior Document in this Proceeding: Notice of hearing issued January 7, 1988, and published in the **Federal Register** (53 FR 898, January 14, 1988).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291 and Departmental Regulation 1512-1.

### Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed amendments of Marketing Agreement and Order No. 905 (order), as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

This notice of filing of the recommended decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR Part 900).

This proposed amendment of the order is based on the record of a public hearing held in Lakeland, Florida on February 17, 1988. The amendment proposals considered at the hearing were submitted by the Citrus Administrative Committee, hereinafter referred to as the committee, established under the order. The United States Department of Agriculture (Department) proposed that it be authorized to make any necessary conforming changes.

### Small Business Considerations

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000. Small agricultural service firms, which include shippers under this order, are defined as those firms with gross annual receipts of less than $3,500,000.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Interested persons were invited in the notice of hearing to present evidence on the probable regulatory and informational impact of the proposed changes on small businesses. Witnesses who presented testimony on this subject were generally of the opinion that the proposed amendments would benefit such businesses. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act are compatible with respect to small entities.

During the 1986-87 season, about 100 shippers of Florida oranges, grapefruit, tangerines, and tangelos were subject to regulation under the order. In addition, there are about 13,000 orange, grapefruit, tangerine, and tangelo producers in Florida. A minority of these shippers and a majority of the producers may be classified as small entities.

The proposed amendments to the marketing order include classifying Canada and Mexico as export markets rather than domestic markets as currently provided. Such a change is expected to result in expanded Florida citrus sales by permitting shipment of the grade and size of fruit more consistent with the demand and preference of the consumers, thereby benefitting Florida citrus producers and shippers. This change would not adversely affect small entities.

The proposal to make the Interior District synonymous with Regulation Area I and the Indian River District synonymous with Regulation Area II would facilitate the marketing of citrus

through the use of commonly used terms, thus benefitting growers and producers.

The proposed amendment, which would authorize the committee with the approval of the Secretary, to change the eligibility requirements for grower members and grower alternate members to serve on the committee, would provide a means to increase the number of qualified growers who could serve on the committee. This change should have no adverse affect on small entities.

The proposed amendment to permit the committee to borrow money in emergency situations would provide the committee with additional flexibility in financing committee operations during such emergency situations, and thereby benefit producers and shippers who operate under the order. There should also be no adverse effect on small entities due to the change.

The proposed amendment to require a continuance referendum every six years would provide producers the opportunity to periodically vote on whether the order should be continued.

All of the proposed amendments set forth in this document are designed to enhance the administration, operation and functioning of the order and should result in an overall positive economic impact on small businesses.

The proposed amendments to the order would have no significant impact on the recordkeeping and reporting burdens of the affected industry. Moreover, the proposed amendments (including referenda every six years) would not change the reporting and recordkeeping requirements under the Paperwork Reduction Act of 1980, which have been previously approved by the Office of Management and Budget (OPM) (Approval No. 0581–0094).

**Material Issues**

The material issues of record addressed in this decision are:

(1) Whether to designate Canada and Mexico as export markets for purposes of establishing quality regulations under the order, rather than domestic markets as they are now;

(2) Whether to include the terms Interior and Indian River Districts in the definitions making them synonymous with Regulation Area I and Regulation Area II;

(3) Whether to change the eligibility requirements for grower members to serve on the committee, by permitting them to also be shippers or employees of shippers who grow citrus fruit under the order;

(4) Whether to permit the committee to borrow money to fund committee operations in emergency situations;

(5) Whether to require a referendum every six years to determine if producers favor continuance of the order; and

(6) Whether to make conforming changes.

**Findings and Conclusions**

The findings and conclusions on the material issues, all of which are based on evidence adduced at the hearing and the record thereof, are:

(1) Section 905.9 should be amended by deleting reference to Canada and Mexico and thus making them export markets rather than domestic markets, and § 905.52 should be amended to make handling regulations issued for fruit shipped to export markets applicable to shipments to Canada and Mexico. Several witnesses testified and presented evidence at the hearing in support of these changes.

Currently, under § 905.9, Canada and Mexico are not considered to be export markets. Under § 905.52, the order provides for the establishment of different grade and size requirements for domestic and export markets in order to recognize varying demand characteristics between these markets.

Minimum grade and size requirements for Florida oranges, grapefruit, tangerines, and tangelos have been in effect under the order continuously for several years for both domestic shipments and export shipments of the fruit. The minimum size requirements have generally been smaller for fruit shipped to export markets than for fruit shipped to domestic markets, while the minimum grade requirements have generally been the same for both domestic and export shipments.

Canada and Mexico were included as domestic markets because of their close proximity to the United States and the belief that the market preferences and requirements of these countries were similar to those of the United States. Canada is an important market for Florida citrus fruit, especially grapefruit and oranges. During the past five seasons (1982–93 through 1986–87), total annual fresh Florida citrus shipments to Canada accounted for 8.6 percent of total fresh shipments. Annual grapefruit shipments to Canada amounted to 11.5 percent of total fruit shipments during that period. Mexico, on the other hand, is currently a relatively minor market for Florida citrus, but shipments to Mexico could increase in the future.

The evidence of record indicates that Canada and Mexico are distinct market areas which are different from those in the United States, and it is no longer appropriate to include them as domestic markets. For example, Canadian consumers tend to prefer smaller-sized, fresh citrus fruit, especially grapefruit, whereas consumers in the United States tend to prefer grapefruit of the larger sizes. In Mexico, on the other hand, the consumer demand for citrus is significantly less than that in the United States and Canada, and the marketing and distribution systems in Mexico differ consideraably from those of the United States. Only minimal quantities of Florida citrus have been shipped to Mexico to date.

Redesignating the Canadian and Mexican markets as export markets would allow handling regulations applicable to export shipments to be instituted to recognize some of the differences in the demand characteristics for fresh citrus existing in these markets. Product standards, such as minimum grade and size requirements, have a significant effect on the demand for agricultural commodities. When variations in the demand among markets can be identified and handling regulations can be established at an appropriate level for each market, the sales of the commodity can be improved for the benefit of producers. Variation in size preference for fresh grapefruit between United States and Canadian consumers is an example of differences in the demand between consumers in these two countries. Hence, allowing the committee to recommend regulations which are more closely tailored to the market needs of these two countries should benefit both growers and shippers of Florida citrus.

A Lake Region Packing Association official testified at the hearing in opposition to reclassifying Canada as an export market because shipments of smaller-sized fruit to Canada would likely displace larger fruit sold in the Canadian market, shift it to the United States market, and possibly reduce prices for the larger-sized fruit in the United States. However, the evidence indicates that Canadian markets generally prefer smaller fruit and the recommended changes would allow the committee to recommend regulations which better meet the export market requirements, and, thus, should have a positive impact on overall industry shipments and returns. This official further testified that smaller grapefruit would increase in size if left on the trees longer and could be marketed later as larger fruit, presumably at a higher price. The recommended changes would not prevent growers from leaving fruit on the trees longer to gain size.

At the time § 905.9 was last amended (1957), the continental United States

consisted of the 48 contiguous States and the District of Columbia, but not Alaska. Testimony presented at the hearing supported the continued use of such definition as the domestic market. As a conforming change, the term continental United States should be changed to "contiguous 48 States and the District of Columbia of the United States."

It is concluded that the definition of "Handle or ship" in § 905.9 should be amended to mean: (a) To sell, consign, deliver, or transport fruit, or in any other way, to place fruit in the current of commerce between the production area and any point outside thereof in the 48 contiguous States and the Distict of Columbia of the United States; and (b) to export fruit from any point in the 48 contiguous States and the District of Columbia of the United States to any destination.

In connection with redesignating Canada and Mexico as export markets, the proponents identified some potential for abuse. The proponents testified that it was possible that Florida citrus shipped to Canada or Mexico meeting export requirements but not domestic requirements could be returned to the United States and disrupt the U.S. market. However, the proponents thought that this was unlikely to happen because the extra handling and transportation costs involved in shipping the fruit back to the United States would make such shipments unprofitable.

Another potential abuse mentioned was the diversion of fruit meeting export requirements but not requirements for domestic markets in the United States while in transit to Mexico or Canada. The proponents thought that this would not likely occur because any such diversion would constitute a violation of the marketing order and the violators would be subject to the penalties authorized under the Act.

However, the proponents recommended that the order should provide authority for the committee to recommend and the Secretary to approve safeguards to guard against any possible abuse. Such safeguards could include requirements specifying that all containers of fruit inspected and certified for export market destinations be marked clearly by the shippers that the fruit is for export only. Other container markings which might be required to provide necessary safeguards are the name and address of the shipper, the inspection lot stamp number, the variety of the fruit, the fruit size and grade, and the country of intended destination. To authorize these safeguards, paragraph (a)(5) of § 905.52 should be amended to add authority for the committee to recommend and the Secretary to issue container marking requirements for fruit packed for export destinations. Also, the current language in paragraph (a)(5) of § 905.52 which authorizes the size, capacity, weight, dimensions, or pack of the container used in the shipment of fruit to export markets should be amended to delete reference to Canada or Mexico.

Reclassifying Canada and Mexico as export markets would exempt fruit shipped to these countries from any shipping holiday prohibitions issued under paragraph (a)(3) of § 905.52 of the order. This action is not expected to cause any problems in order operations.

Therefore, it is concluded that the provisions in § 905.52 should be amended, as hereinafter set forth, to make handling regulations issued for export markets applicable to Canada and Mexico. To accomplish this, paragraphs (a)(3), (a)(4), (a)(5), and (d) in § 905.52 need to be revised to change all references to Canada and Mexico as domestic markets, to export markets.

(2) Sections 905.15 and 905.16 should be amended, as hereinafter set forth, to include the terms Interior and Indian River Districts in the definitions making them synonymous with Regulation Area I and Regulation Area II, respectively. All of the testimony and evidence presented at the hearing on the committee's proposal to define the Interior District and the Indian River District in the order was in support of the proposed definition changes.

The order currently defines Regulation Area I in § 905.15 to include all that part of the production area not included in Regulation Area II and defines Regulation Area II in § 905.16 as a prescribed area along the east coast of Florida.

Federal Marketing Order 913, which authorized weekly volume regulations for grapefruit grown in the Interior District, defined that district in § 913.12 of that order prior to its termination on October 9, 1987 (52 FR 37762, October 9, 1987), and Federal Marketing Order 912, which authorized weekly volume regulations for grapefruit grown in the Indian River District, defined that district in § 912.13 of that order prior to its termination on July 31, 1987 (52 FR 21241, June 5, 1987). Also, both the Interior District and the Indian River District are defined currently in § 601.091 of the Florida Statutes. In former Marketing Orders 912 and 913, the term Interior District covered the same area as Regulation Area I in Order 905, and the term Indian River District covered the same area as Regulation Area II in Order 905. In the current Florida Statutes, these terms correspond similarly.

The evidence of record further indicates that the terms Interior District and Indian River District more clearly depict the two citrus fruit producing areas in Florida than do the terms Regulation Area I and Regulation Area II, and that the district names are more commonly used by the Florida citrus industry in referring to these areas. Furthermore, it is a current practice of some shippers to designate the district in which the fruit is grown when the fruit is marketed. Most fresh grapefruit grown in Regulation Area II are currently marked as having been grown in the Indian River District. Further, growers and shippers in this growing area have spent substantial sums of money promoting fruit grown in this area as a premium product.

Therefore, §§ 905.15 and 905.16 of the order should be amended to include the terms Interior District and Indian River District in the definitions making them synonymous with Regulation Area I and Regulation Area II.

(3) Section 905.19 provides for the establishment of a committee, comprised of grower and shipper members and a non-industry member, to administer the order locally. This section also specifies the number of growers and handlers which shall serve on the committee, and the eligibility requirements for each of these membership categories. The order provides that the committee shall consist of at least eight but not more than nine grower members, and eight shippers members. Shipper members must be shippers or employees of shippers. Currently, grower members are not permitted to be persons who are also shippers or employees of shippers. There is no prohibition against shipper members being growers or employees of growers.

Proponents favored revising § 905.19 of the order to remove the prohibition that grower members cannot be shippers or employers of shippers. The change would permit growers who are also shippers or employees of shippers to be nominated and to serve as grower members and alternate grower members on the committee. The proponents contended that this change in the eligibility requirements would increase the number of qualified growers who could be nominated and selected to serve on the committee by making all growers eligible to serve.

The proponents presented evidence indicating that there has been considerable change in the Florida citrus industry since the order which covers

fresh market shipments because effective in the late 1930's. Since that time, the industry has evolved from a predominantly fresh oriented industry to a predominantly processed-product industry. When the order became effective, approximately 80 percent of the Florida citrus fruit produced was shipped fresh, compared with approximately 18 percent of the crop shipped fresh during the 1986–87 season. As a consequence, fewer growers now have a direct interest in marketing order operations.

Also, the proponents stated that many growers are employed by shippers and that some serve on the boards of directors for shippers. Moreover, some growers also ship their own citrus fruit and fruit for other growers. One consequence of this development is that there are fewer eligible growers who can serve on the committee as grower members, and the committee experienced difficulty at times in finding qualified nominees who are interested in filling the grower member positions under the current eligibility requirements.

Two witnesses representing Florida Citrus Mutual and the Indian River Citrus League, which collectively represent over 13,000 members, testified at the hearing in opposition to changing the eligibility requirements. They testified that the current requirements specifying that grower members on the committee not be shippers or employees of shippers should not be changed because the current requirements maintain a proper balance between the two categories of members on the committee—the grower members and the shipper members. They contended that permitting growers who are also shippers to serve on the committee as grower members could result in a shift of the current balance on the committee in favor of shipper interests. As shippers' interests may differ from growers' interests, this could result in recommendations for handling regulations which are favorable to shippers but not growers.

In evaluating the testimony, it is recognized that marketing orders are primarily intended to promote grower interests, and it is important that administrative committees and members representing grower interests. The record indicates that more growers are now involved in some manner in the activities of shippers and the trend appears to be for increased grower involvement in the handling of their fruit. This involvement includes growers participating on the boards of directors of shipping organizations. This trend helps to explain the current difficulty in finding qualified candidates. Moreover, while there was opposition testimony on behalf of two organizations which collectively represent a very large portion of all Florida citrus growers, that testimony did not directly address the apparent difficulty the committee has experienced in obtaining qualified grower nominees. No estimate of the number of citrus growers in the industry who would qualify as grower members under the present order requirements was ordered. Also, no distinction was made between potential grower members who handled only their own fruit and grower members with small acreage whose principal occupation was as a shipper for a number of growers.

In view of the foregoing, the record does not clearly support a need for the proposed amendment. However, it does support the proposition that at some time in the near future, current requirements for grower members and alternates may need to be modified in order to expand the field of eligible candidates. Thus, to provide for such contingency, paragraph (a) of § 905.19 should be revised to authorize the committee, with the approval of the Secretary, to establish alternative qualifications for grower members and alternates. Such authority would provide necessary flexibility to the committee to respond to any shortage of qualified grower members. It would be appropriate for the committee to make any such recommendation since it is, under the order, the official representative body of the industry.

Any resulting committee recommendations should have as their purpose the qualification of persons who will represent the interests of growers. Any such recommendation should include a wide range of possible alternatives to insure that a full committee is nominated and appointed and that grower interests are served.

(4) At the present time the order authorizes the committee, with the approval of the Secretary, to make expenditures and establish an assessment rate each fiscal period for fruit shipped under the order. Handlers of the fruit are obligated to pay assessments to the committee based on the number of cartons of fruit shipped. Any assessment in excess of expenses incurred during a fiscal period may be carried over as a reserve, provided the funds already in the reserve do not exceed approximately one-half of one fiscal period's expenses.

The committee has found, over the years, that during normal seasons the present order provisions have provided sufficient funds to carry on normal operations from one season to the next. However, over the past six seasons, the Florida citrus industry has experienced four devastating freezes that brought the reserve fund to undesirably low levels before assessment income from the next season became available to pay expenses. The frequency of such freezes caused the committee to recommend that authority be added to the order to permit the committee to borrow money in emergency situations to continue normal operations until assessment revenue is sufficient to pay authorized expenses.

The shipping season for Florida citrus fruit normally begins in mid-September and continues through mid-June. This seasonal, shipping period varies slightly from season to season depending on weather conditions. Historically, such shipments are light through mid-October and increase significantly in November and remain heavy through the end of March and then start to decline and end in June. The committee's reserve fund is normally used to meet most of its financial obligations during the first part of the fiscal period each season from August 1 until the first part of December, when sufficient assessment funds become available to meet committee expenses. In the event of a severe crop reduction due to a freeze, hurricane, or other extreme emergency, and consequent lack of assessment income, the committee should be permitted to borrow needed money on a short term basis to insure continued operation of the order. Such borrowed money would permit the committee to continue functioning and the order to operate during the crisis. The committee would repay borrowed money by the end of the next fiscal period from assessment income.

Increasing the assessment rate during the fiscal period following a disaster to generate additional funds would require all shippers to pay a higher assessment rate on all fruit shipped during the entire season. This could place an economic hardship on shippers. Hence, a significant increase in the assessment rate would not be a satisfactory solution to this potential problem.

The authority to borrow money is not intended to permit the committee to obligate itself to borrow large sums of money over an extended period of time. Any borrowing should be used only when necessary to meet financial obligations, in the event that assessment income is substantially reduced, to permit the committee to continue operating following emergencies such as devastating freezes or hurricanes.

Based on the testimony and evidence presented at the hearing, a new paragraph (c) should be added to § 905.41, as hereinafter set forth, to permit the committee to borrow money on a short term basis to meet current financial obligations in the event of an extreme emergency. The language in paragraph (c) of § 905.41 has been changed from that in the hearing notice for clarification purposes and to provide more precisely when the committee should repay borrowed money.

(5) The committee proposed that periodic referenda should be held to determine whether the order should be continued. A proponent witness representing the Florida Farm Bureau testified in favor of the committee's proposal to amend the order to require that such referenda should be held every six years. In addition, the committee manager testified in favor of the proposal, and other witnesses expressed support for the proposal. One witness testified in opposition to the proposal because he did not think that continuance referenda are necessary.

The Secretary has determined that continuance referenda are an effective means for ascertaining whether producers favor continuation of marketing order programs. Currently, the order provides that the Secretary may terminate the marketing order program at any time by giving at least one day's notice, and shall terminate it whenever, through the conduct of a referendum, it is indicated that a majority of producers favor termination, provided that, such majority produced more than 50 percent of the commodity for market during a representative period. Since less than 50 percent of all producers often participate in a referendum, it is difficult to determine producer support or opposition for termination of an order. Thus, to provide a basis for determining whether producers favor continuance of the order, a new paragraph (c) should be added to § 905.83 to provide for continuance referenda. Current paragraph (c) should be redesignated as paragraph (d). Also, proponents at the hearing testified that consideration regarding continuance of the order should be based on two-thirds of the producers voting in the referendum or producers of two-thirds of the volume of fruit represented in the referendum.

The results of continuance referenda should be based upon the same percentage of support required in section 8c(8) of the Act with respect to producer approval of the issuance of a marketing order. This requirement is considered adequate to measure producer support to continue the marketing order. The Secretary would consider termination of the order if less than two-thirds of the producers voting in the referendum and producers of less than two-thirds of the volume of fruit represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the Secretary would not only consider the results of the referendum but also all other relevant information concerning the operation of the order and the relative benefits and disadvantages to producers, handlers, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act. In this regard, in the event of an adverse vote by producers in a continuance referendum, the Secretary may solicit input from the public through meetings, press releases, or other means.

The Secretary's "Guidelines For Fruit, Vegetable, and Specialty Crop Marketing Orders" provide for periodic referenda to allow producers the opportunity to indicate their support for or rejection of a marketing order. It is the position of the Department that periodic referenda ensure that marketing order programs continue to be accountable to their producers, obligate producers to evaluate their programs periodically, and involve producers more closely in the marketing order operation. The record evidence supports these goals.

The Agricultural Marketing Service recommends that the order be amended to provide that the Department conduct referenda every six years after the effective date of this amendment to ascertain whether producers favor continuance of the order. This recommendation is based on an evaluation of evidence and a finding that evidence supports adding this provision to the order. To effect this change, § 905.83 should be amended by redesignating current paragraph (c) as paragraph (d), and by adding a new paragraph (d) to provide that the Secretary shall conduct a referendum six years after the effective date of the amendment and every sixth year thereafter to ascertain whether continuance of this part is favored by producers. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by producers who during a representative period, determined by the Secretary, has been engaged in the production for market of the fruit in the production area. Such termination shall be announced on or before July 31 of the fiscal period.

(6) The Department proposed in the notice of hearing that it be authorized to make any necessary changes in the order language to make the entire order conform with any amendments resulting from this proceeding. This proposal was supported at the hearing without opposition. Such conforming changes as necessary have been incorporated in this recommended decision.

**Rulings on Briefs of Interested Persons**

At the conclusion of the hearing, the Administrative Law Judge fixed March 31, 1988, as the final date for interested persons to file proposed findings and conclusions and written arguments or briefs, based on the evidence received at the hearing. None were filed.

**General Findings**

Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary to, and in addition to, the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of fresh oranges, grapefruit, tangerines, and tangelos grown in the production area in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(5) The marketing agreement and order, as amended and as hereby proposed to be further amended, prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of fresh oranges, grapefruit, tangerines, and tangelos grown in the production area; and

(6) All handling of fresh oranges, grapefruit, tangerines, and tangelos grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

**List of Subjects in 7 CFR Part 905**

Marketing agreements and orders, Florida, Oranges, Grapefruit, Tangerines, Tangelos.

*Recommended Further Amendment of the Marketing Agreement and Order*

The following amendment of the marketing agreement and order, both as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

## PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIA

1. The authority citation for 7 CFR Part 905 continues to read as follows:

**Authority:** Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 905.9 is revised, and § 905.52 is amended by revising paragraphs (a)(3), (a)(4), (a)(5), and (d) to read as follows:

**§ 905.9 Handle or ship.**

"Handle or ship" means (a) to sell, consign, deliver, or transport fruit, or in any other way, to place fruit in the current of commerce between the production area and any point outside thereof in the 48 contiguous States and the District of Columbia of the United States; and (b) to export fruit from any point in the 48 contiguous States and the District of Columbia of the United States to any destination.

**§ 905.52 Issuance of regulations.**

(a) * * *

(1) * * *

(2) * * *

(3) Limit the shipment of the total quantity of any variety by prohibiting the shipment thereof: *Provided,* That no such prohibition shall apply to exports or be effective during any fiscal period with respect to any variety other than for one period not exceeding five days during the week in which Thanksgiving Day occurs, and for not more than two periods not exceeding a total of 14 days during the period December 20 to January 20, both dates inclusive.

(4) Provide that exports of any variety shall be limited to grades and sizes different from the grade and size limitations applicable to shipments of such variety in the United States, and specify condition requirements for such variety; and

(5) Fix the size, capacity, weight, dimensions, marking, or pack of the container or containers which may be used in the shipment of fruit for export: *Provided,* That such regulation shall not authorize the use of any container which is prohibited for use for fruit under the provisions of Chapter 601 of the Florida Statutes and regulations effective thereunder.

(b) * * *

(c) * * *

(d) Whenever any variety is regulated pursuant to paragraph (a)(3) of this section, no such regulation shall be deemed to limit the right of any person to sell, contract to sell, or export such variety, but no handler shall otherwise ship any fruit of such variety which was prepared for market during the effective period of such regulation.

3. Section 905.15 is revised and § 905.16 is amended by revising the introductory text to read as follows:

**§ 905.15 Regulation Area I.**

"Regulation Area I" is defined as the "Interior District", and shall include all that part of the production area not included in Regulation Area II.

**§ 905.16 Regulation Area II.**

"Regulation Area II" is defined as the "Indian River District", and shall include that part of the State of Florida particularly described as follows:

* * * * *

4. Section 905.19 is revised to read as follows:

**§ 905.19 Establishment and membership.**

(a) There is hereby established a Citrus Administrative Committee consisting of at least eight but not more than nine grower members, and eight shipper members. Grower members shall be persons who are not shippers or employees of shippers: *Provided,* That the committee with the approval of the Secretary may establish alternative qualifications for such grower members. Shipper members shall be shippers or employees of shippers. The committee may be increased by one non-industry member nominated by the committee and selected by the Secretary. The committee, with approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the non-industry member.

(b) Each member shall have an alternate who shall have the same qualifications as the member for whom this person is an alternate.

5. Section § 905.41 is amended by adding a new paragraph (c) to read as follows:

**§ 905.41 Assessments.**

* * * * *

(c) In the case of an extreme emergency, the committee may borrow money on a short term basis to provide funds for the administration of this part. Any such borrowed money shall only be used to meet the committee's current financial obligations, and the committee shall repay all such borrowed money by the end of the next fiscal period from assessment income.

6. Section § 905.83 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

**§ 905.83 Termination.**

* * * * *

(c) The Secretary shall conduct a referendum six years after the effective date of this subsection and every sixth year thereafter to ascertain whether continuance of this part is favored by producers. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by producers who during a representative period, determined by the Secretary, have been engaged in the production for market of the fruit in the production area. Such termination shall be announced on or before July 31 of the fiscal period.

* * * * *

Dated: February 3, 1989.

**J. Patrick Boyle,**

*Administrator.*

[FR Doc. 89–2985 Filed 2–7–89; 8:45 am]

BILLING CODE 3410–02–M

## FEDERAL TRADE COMMISSION

**16 CFR Part 13**

**[File No. 872 3044]**

## Cooper Rand Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a New York marketer of consumer products from representing that any lighter-to-lighter charger will restart a discharged battery instantly or as quickly as jumper cables, or from making any other performance claim for the product, unless respondent can substantiate such claims. In addition, the order would require respondent to prominently disclose in each advertisement and in the product instruction insert, either a statement concerning the product's limitations or the specific length of time needed to recharge a battery.

**DATE:** Comments must be received on or before April 10, 1989.

**ADDRESS:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Allen Hile or Lydia Parnes, FTC/H-238, Washington, DC 20580. (202) 326-3122 or 326-3126.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

**List of Subjects in 16 CFR Part 13**

Automobile battery chargers, Battery chargers, Trade practices.

**Agreement Containing Consent Order To Cease and Desist**

The Federal Trade Commission having initiated an investigation of certain acts and practices of Cooper Rand Corporation, a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that the proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Cooper Rand Corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Cooper Rand Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 45 West 25th Street, New York, New York 10010.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint attached hereto.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it together with the proposed complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and take action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. The agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the proposed complaint attached hereto.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the proposed complaint attached hereto and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect hereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order comtemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

**Order**

For the purpose of this Order, "lighter-to-lighter charger" means any device to be used to recharge the battery in a disabled vehicle by connection to an operating vehicle through the cigarette lighter receptacles of both vehicles.

I.

It is ordered that respondent, Cooper Rand Corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the marketing, advertising, offering for sale, sale, or distribution of the Auto Starter or any other lighter-to-lighter charger in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

(a) That any such lighter-to-lighter charger can or will restart a vehicle disabled by a discharged battery as quickly as jumper cables;

b. That any such lighter-to-lighter charger can or will instantly restart a vehicle disabled by a discharged battery; or

c. Any performance characteristic of any lighter-to-lighter charger unless, at the time the representation is made, respondent possesses and relies upon competent and reliable scientific evidence which substantiates such representation; provided, however, that

to the extent such evidence consists of any test, experiment, analysis, research, study or other evidence based on the expertise of professionals in a relevant area, such evidence shall be "competent and reliable" for purposes of this paragraph only if the test, experiment, analysis, research, study, or other evidence is conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

II.

It is further ordered that respondent, Cooper Rand Corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the marketing, advertising, offering for sale, sale or distribution of the Auto Starter or any other lighter-to-lighter charger in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith and for a period of five (5) years from the effective date of service of this order cease and desist from failing to disclose clearly and prominently in each solicitation for the sale of such lighter-to-lighter charger, on a hand tab affixed to each such lighter-to-lighter charger, and in the product instruction insert either.

(a) The following information expressed in the exact language set forth below in ten point or larger bold face Helvetica type:

This product will not instantly start your car. Unlike a jumper cable, it must first recharge your battery. Also, older batteries or colder temperatures may significantly increase the amount of time needed to restart your car.

or

(b) The specific length of time required to recharge a battery in a given state of discharge, accompanied by a statement disclosing whether the specified time is a maximum, minimum, typical, or other such time, and that older batteries or colder temperatures may increase charging times.

III.

It is further ordered that respondent, Cooper Rand Corporation, its successors and assigns, shall, within fifteen (15) days after the date of service of this Order, using lists of names and addresses of purchasers of lighter-to-lighter chargers Cooper Rand has complied from its own files, and from the files of each credit card issuing company or other company through which Cooper Rand Corporation sold or distributed lighter-to-lighter chargers to the public, send by first class mail to each of the approximately 131,000 purchasers of a lighter-to-lighter charger whose name and address appears on such lists a 4" X 6" postcard containing only the exact language as set forth in Appendix A, attached hereto and incorporated herein by reference, and clearly stamped on the front in at least twelve (12) point type with the words "IMPORTANT PRODUCT INFORMATION."

IV.

It is further ordered that Cooper Rand Corporation, its successors and assigns, shall distribute a copy of this Order to each present and future officer, employee, agent and representative having sales, advertising, or policy making responsibilities for any lighter-to-lighter charger and secure from each such person a signed statement acknowledging receipt of said Order.

V.

It is further ordered that respondent, Cooper Rand Corporation, its successors and assigns, shall maintain for at least three years and make available to the FTC with reasonable notice for inspection records showing the names and addresses of all owners to whom the notice required by Part III of this Order is sent.

VI.

It is further ordered that respondent, Cooper Rand Corporation, its successors and assigns, shall maintain for at least three years and upon request make available to the Federal Trade Commission for inspection and copying:

(a) The originals of signed statements required by Part IV of this Order;

(b) All materials relied upon to substantiate any representation covered by this order;

(c) All test reports, studies, data or other materials and other documents or information in respondent's possession or control that contradict, qualify or call into question such representation or the basis upon which respondent relied for such representation;

(d) Records showing the name and address of any consumer who contacts respondent pursuant to the notice provided by Part III of this order, and the total number of such contacts; and

(e) Records showing any action respondent takes in response to any such consumer contact in response to the notice provided by Part III of this order, and the total number of such actions.

VII.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

VIII.

It is further ordered that respondent shall, within ninety (90) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail, the manner and form in which it has complied with this Order.

**Appendix A**

Dear Customer:

Our records show that some time ago you purchased a lighter-to-lighter auto battery charger distributed by Cooper Rand Corporation.

We want you to be aware that lighter-to-lighter chargers cannot restart a disabled vehicle as quickly as jumper cables can. This is because they work by recharging a battery rather than by providing a brief "jolt" of energy to restart your vehicle, as jumper cables do. Also, longer charging time is needed with low outdoor temperatures, older batteries, and batteries in poor condition. If a battery is too old or its condition is too poor, it may not accept a charge.

Cooper Rand is concerned that our customers accurately understand the use of this product. We trust that the above information will clarify the proper use of your lighter-to-lighter charger.

Sincerely,

Michael Flood,

*Vice President, Cooper Rand Corporation.*

## Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Cooper Rand Corporation, 45 West 25th Street, New York 10010. Cooper Rand is a direct marketer of a variety of consumer products.

This proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Cooper Rand Corporation sells through solicitations enclosed with the

monthly statement of various credit card issuing companies a number of consumer products, including the "Auto Starter." The "Auto Starter" is a portable "lighter-to-lighter" automobile battery charger, a device designed to be used to recharge the battery in a disabled vehicle by connection to an operating vehicle through the cigarette lighter receptacles of both vehicles.

The complaint charges that Cooper Rand expressly misrepresented that lighter-to-lighter charges can or will restart a vehicle disabled by a discharged battery "instantly" and as quickly as jumper cables. The complaint alleges that this is deceptive and in violation of section 5 of the Federal Trade Commission Act because lighter-to-lighter charges take significantly longer than jumper cables to restart a vehicle, even under the most favorable circumstances, and lighter-to-lighter charges cannot restart a vehicle disabled by a discharged battery instantly.

The complaint also alleges that Cooper Rand expressly misrepresented that illumination of the lighter-to-lighter charger's power monitor light indicates that the disabled vehicle is ready to start. The complaint alleges that this is deceptive and in violation of section 5 of the Federal Trade Commission Act because illumination of the lighter-to-lighter charger's power monitor light is not an accurate indicator that a disabled vehicle is ready to start.

In addition, the complaint charges that Cooper Rand claimed that it had a reasonable basis for its claims that lighter-to-lighter charges can or will restart a vehicle disabled by a discharged battery "instantly" and as quickly as jumper cables. The complaint alleges that this misrepresentation by Cooper Rand was deceptive and in violation of section 5 of the Federal Trade Commission Act.

Part I of the proposed consent order would prohibit Cooper Rand from representing that its lighter-to-lighter charges can or will restart a vehicle disabled by a discharged battery "instantly" or as quickly as jumper cables, and would prohibit Cooper Rank from making any performance claims for these without possessing and relying upon a reasonable basis for those claims at the time they are made.

Part II of the proposed consent order would require Cooper Rand to disclose, in solicitations for future sales of its lighter-to-lighter chargers, on a hang tag affixed to the product, and in the product instruction insert, *either*: The specific length of time required to recharge a battery in a given state of discharge and whether the specified time is a maximum, minimum, typical, or other such time, and that older batteries or colder temperatures may increase charging time; *or*: that lighter-to-lighter chargers, unlike jumper cables, will not instantly restart a vehicle; that lighter-to-lighter chargers must recharge a battery before the vehicle can be restarted; and that older batteries and colder temperatures may significantly increase the amount of time needed to restart a vehicle with a lighter-to-lighter charger.

Part III of the proposed consent order would require Cooper Rand to send past purchasers of lighter-to-lighter chargers a corrective notice disclosing that lighter-to-lighter chargers, unlike jumper cables, will not instantly restart a vehicle; that lighter-to-lighter chargers must recharge a battery before the vehicle can be restarted; and that older batteries and colder temperatures may significantly increase the amount of time needed to restart a vehicle with a lighter-to-lighter charger.

Part IV of the proposed consent order would required Cooper Rand to distribute copies of the order to all of its officers, employees, and other agents. Part V of the proposed consent order would require Cooper Rand to retain for three years and make available to the Commission the names and addresses of persons to whom the required corrective notice is sent. Part VI would require Cooper Rand to retain and make available to the Commission certain other records, including any materials relied upon to substantiate any representation, and any test reports, studies, data or other materials that qualify or call into question any such representation or the basis upon which Cooper Rand relies for such representation. Part VII of the proposed consent order would require Cooper Rand to notify the Commission of any change in its corporate structure that might affect compliance obligations arising out of the order. Finally, Part VIII would require Cooper Rand to file a report within ninety (90) days after the order is served setting forth the manner and form of its compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed consent order; it is not intended to constitute an official interpretation of the agreement and proposed consent order, or to modify their terms in any way.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 89-2930 Filed 2-7-89; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### 21 CFR Parts 1310 and 1313

### Records, Reports, Imports, and Exports of Precursor and Essential Chemicals, Tableting Machines, and Encapsulating Machines

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule outlines procedures designed to implement the regulatory requirements set forth in the Chemical Diversion and Trafficking Act of 1988. The proposal contains the requirements for the recordkeeping, reporting, importing, and exporting of precursor and essential chemicals, and recordkeeping and reporting on tableting machines and encapsulating machines.

**DATE:** Written comments and objections must be received on or before March 27, 1989.

**ADDRESSES:** Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative/CCR.

**FOR FURTHER INFORMATION CONTACT:** Mr. G. Thomas Gitchel, Chief, State and Industry Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Telephone (202) 633-1216.

**SUPPLEMENTARY INFORMATION:** The Chemical Diversion and Trafficking Act of 1988 (Pub. L. 100-690) requires that any person who distributes, imports, or exports certain precursor and essential chemicals identify their customers, maintain retrievable records for a specified period of time, report suspicious or unusual orders, and provide advanced notification of imports and exports. The requirements for maintaining records and reporting suspicious or unusual orders also applies for tableting machines, and encapsulating machines. The Act further provides that the Attorney General has the authority to suspend imports and exports if he determines that such shipments may be diverted to the clandestine manufacture of a controlled substance.

When the rule is finalized, the Piperidine Report (DEA Form 420), OMB approval 1117-0017, will be eliminated.

The Administrator of the Drug Enforcement Administration hereby certifies that this proposed rule will

have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This rule is not a major rule for purposes of Executive Order (E.O.) 12291 of February 17, 1981. Pursuant to sections 3(c)(3) and 3(e)(2)(C) of E.O. 12291 this proposed rule has been submited for review to the Office of Management and the Budget.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612, and it has been determined that the proposed rule does not have sufficient federalism implications towarrant the preparation of a Federalism Assessment.

**List of Subjects**

*21 CFR Part 1310*

Drug traffic control, Reporting and recordkeeping requirements.

*21 CFR Part 1313*

Drug traffic control, Exports, Imorts, Reporting requirements.

For reasons set out above, Chapter II, Title 21, Code of Fedearl Regulations is proposed to be amended as follows:

1. Part 1310 is proposed to be revised to read as follows:

## PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES

Sec.



Authority: 21 U.S.C. 802, 830, 871(b).

### § 1310.1 Definitions.

As used in this part, the following terms shall have the meanings specified:

(a) The term "Act" means the Controlled Substances Act, as amended (84 Stat. 1242; 21 U.S.C. 801) and/or the Controlled Substances Import and Export Act, as amended (84 Stat. 1285; 21 U.S.C. 951).

(b) The term "listed chemical" means any listed precursor chemical or listed essential chemical.

(c) The term "listed precursor chemical" means a chemical specifically designated by the Administrator in § 1310.2(a) that, in addition to legitimate uses, is used in manufacturing a controlled substance in violation of this title and is critical to the creation of a controlled substance.

(d) The term "listed essential chemical" means a chemical specifically designated by the Administrator in § 1310.2(b) that, in addition to legitimate uses, is used as a solvent, reagent, or catalyst in manufacturing a controlled substance in violation of this title.

(e) The term "regulated person" means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine.

(f) The term "regulated transaction" means:

(1) A distribution, receipt, sale, importation or exportation of a threshold amount as determined by the Administration which includes a cumulative threshold amount for multiple transactions of a listed chemical, except that such term does not include:

(i) A domestic lawful distribution in the usual course of business between agents or employees of a single regulated person; in this context, agents or employees means under the direct management and control of the regulated person;

(ii) A delivery of a listed chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman, except that if the carriage or storage is in connection with the distribution, importation, or exportation of a listed chemical to a third person, this paragraph does not relieve a distributor, importer, or exporter from compliance with this section;

(iii) Any category of transaction specified by regulation of the Administration as excluded from this definition as unnecessary for enforcement of this title or title III;

(iv) Any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or

(v) Any transaction in a chemical mixture.

(2) A distribution, importation, or exportation of a tableting machine or encapsulating machine.

(g) The term "chemical mixture" means a combination of two or more chemical substances, at least one of which is not a listed precursor chemical or listed essential chemical, except that such term does not include any combination of a listed precursor chemical or a listed essential chemical with another chemical that is present solely as an impurity or which has been created to evade the requirements of the Act.

(h) The term "retrievable" means that records required by this section are kept by automatic data processing systems or other electronic or mechanized recordkeeping systems in such a manner that they can be readily retrieved and separated out from all other records in a reasonable time and/or records are kept on which the listed chemicals, tableting machines, and encapsulating machines are asterisked, redlined, or in some other manner visually identifiable apart from other items appearing on the records or are maintained separate from all other records.

(i) Any term not defined in this section shall have the definition set forth in section 102 and 1001 of the Act (21 U.S.C. 802 and 951) and § 1301.2 of this chapter.

### § 1310.2 Substances covered.

The following chemicals have been specifically designated by the Administrator of the Drug Enforcement Administration as the listed chemicals subject to the provisions of this section and Part 1313.

(a) Listed Precursor Chemicals:

(1) Anthranilic acid and its salts.

(2) Benzyl cyanide.

(3) Ephedrine, its salts, optical isomers, and salts of optical isomers.

(4) Ergonovine and its salts.

(5) Ergotamine and its salts.

(6) N-Acetylanthranilic acid and its salts.

(7) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

(8) Phenylacetic acid and its salts.

(9) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.

(10) Piperidine and its salts.

(11) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

(12) 3,4-Methylenedioxyphenyl-2-propanone.

(b) Listed Essential Chemicals:

(1) Acetic anhydride.

(2) Acetone.

(3) Benzyl chloride.

(4) Ethyl ether.

(5) Hydriodic acid.

(6) Potassium permanganate.

(7) 2-Butanone (or Methyl Ethyl Ketone or MEK).

(8) Toluene.

(c) The Administrator may add or delete a substance as a listed chemical by publishing a final rule in the **Federal Register** following a proposal which shall be published at least 30 days prior to the final rule.

(d) Any person may petition the Administrator to have any substance

added or deleted from paragraphs (a) or (b) of this section.

(e) Any petition under this section shall contain the following information:

(1) The name and address of the petitioner;

(2) The name of the chemical to which the petition pertains;

(3) The name and address of the manufacturer(s) of the chemical (if known);

(4) A complete statement of the facts which the petitioner believes justifies the addition or deletion of the substance from paragraphs (a) or (b) of this section;

(5) The date of the petition.

(f) The Administrator may require the petitioner to submit such documents or written statements of fact relevant to the petition as he deems necessary in making a determination.

(g) Within a reasonable period of time after the receipt of the petition, the Administrator shall notify the petitioner of his decision and the reason therefor. The Administrator need not accept a petition if any of the requirements prescribed in paragraph (e) of this section or requested pursuant to paragraph (f) of this section are lacking or are not clearly set forth as to be readily understood. If the petitioner desires, he may amend and resubmit the petition to meet the requirements of paragraphs (e) and (f) of this section.

(h) If a petition is granted or the Administrator, upon his own motion, adds or deletes substances as listed chemicals as set forth in paragraph (c) of this section, he shall issue and publish in the **Federal Register** a proposal to add or delete a substance as a listed chemical. The Administrator shall permit any interested person to file written comments regarding the proposal within 30 days of the date of publication of his order in the **Federal Register**. The Administrator will consider any comments filed by interested persons and publish a final rule in accordance with his decision in the matter.

**§ 1310.3 Persons required to keep records and file reports.**

Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall keep a record of the transaction and file reports as specified by § 1310.4.

**§ 1310.4 Maintenance of records.**

(a) Every record required to be kept subject to § 1310.3 for a listed precursor chemical, a tableting machine, or an encapsulating machine shall be kept by the regulated person for four years after the date of the transaction.

(b) Every record required to be kept subject to § 1310.3 for a listed essential chemical shall be kept by the regulated person for two years after the date of the transaction.

(c) A record under this section shall be kept at the principal place of business or other location which is provided in writing to the Special Agent in Charge of the Administration in the nearest office of the Drug Enforcement Administration and shall be readily retrievable and available for inspection and copying by authorized employees of the Administration under the provisions of 21 U.S.C. 880.

**§ 1310.5 Reports.**

(a) Each regulated person shall report to the nearest office of the Drug Enforcement Administration, as follows:

(1) Any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of this part.

(2) Any proposed regulated transaction with a person whose description or other identifying characteristic the Administration has previously furnished to the regulated person.

(3) Any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person.

(4) Any domestic regulated transaction in a tableting machine or an encapsulating machine.

(b) Each report submitted pursuant to paragraph (a) of this section shall, whenever possible, be made orally to the nearest office of the Administration at the earliest practicable opportunity after the regulated person becomes aware of the circumstances involved and as much in advance of the conclusion of the transaction as possible. Written reports of transactions listed in paragraphs (a)(1), (a)(3) and (a)(4) of this section will subsequently be filed as set forth in § 1310.6. A transaction may not be completed with a person whose description or identifying characteristic has previously been furnished to the regulated person by the Administration unless the transaction is approved by the Administration.

(c) The quantitative threshold to be utilized in determining whether a receipt, sale, importation or exportation is a regulated transaction or the cumulative amount for multiple transactions within a thirty day period which would be reportable under this section are as follows:

(1) Listed Precursor Chemicals:

| Chemical | Base weight |
|---|---|
| (i) Anthranilic acid and its salts | 30 kilograms. |
| (ii) Benzyl cyanide | 1 kilogram. |
| (iii) Ephedrine, its salts, optical isomers, and salts of optical isomers. | 1 kilogram. |
| (iv) Ergonovine and its salts | 10 grams. |
| (v) Ergotamine and its salts | 20 grams. |
| (vi) N-Acetylanthranilic acid and its salts. | 40 kilograms. |
| (vii) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers. | 2.5 kilograms. |
| (viii) Phenylacetic acid and its salts. | 1 kilogram. |
| (ix) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers. | 2.5 kilograms |
| (x) Piperidine and its salts | 500 grams. |
| (xi) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers. | 1 kilogram. |
| (xii) 3,4-Methylenedioxyphenyl-2-propanone. | 20 kilograms |

(2) Listed Essential Chemicals:

(i) Imports and Exports

| Chemical | By volume | By weight of chemical |
|---|---|---|
| (A) Acetic anhydride | 250 gallons | 1,023 kilograms. |
| (B) Acetone | 500 gallons | 1,500 kilograms. |
| (C) Benzyl chloride | N/A | 4 kilograms |
| (D) Ethyl ether | 500 gallons | 1,364 kilograms |
| (E) Hydriodic acid | 40 liters (57%) | 22.8 kilograms. |
| (F) Potassium permanganate | N/A | 500 kilograms. |
| (G) 2-Butanone (MEK) | 500 gallons | 1,455 kilograms |
| (H) Toluene | 500 gallons | 1,591 kilograms. |

(ii) Domestic Sales

| Chemical | By volume | By weight of chemical |
|---|---|---|
| (A) Acetic anhydride | 250 gallons | 1,023 kilograms. |
| (B) Acetone | 50 gallons | 150 kilograms. |
| (C) Benzyl chloride | N/A | 1 kilogram. |
| (D) Ethyl ether | 50 gallons | 135.8 kilograms. |
| (E) Hydriodic acid | 10 liters (57%) | 5.7 kilograms. |
| (F) Potassium permanganate | N/A | 55 kilograms. |
| (G) 2-Butanone (MEK) | 50 gallons | 145 kilograms. |
| (H) Toluene | 50 gallons | 159 kilograms. |

(iii) The cumulative threshold is not applicable to domestic sales of Acetone, 2-Butanone (MEK), and Toluene.

**§ 1310.6 Content of records and reports.**

(a) Each record and/or report required by §§ 1310.3–1310.5 shall include the following:

(1) The name, address, and telephone number of each party to the regulated transaction.

(2) The date of the regulated transaction.

(3) The name, quantity and form of packaging of the listed chemical or a description of the tableting machine or encapsulating machine (including make, model and serial number).

(4) The method of transfer (company truck, picked up by customer, etc.).

(5) The type of identification used by the purchaser and any unique number on that identification.

(b) If a report is submitted pursuant to § 1310.5 (a)(1) or

(a)(3), the report must also include a description of the circumstances leading the regulated person to make the report, such as the reason that the method of payment was uncommon or the loss unusual. If the report is a loss or disappearance under § 1310.5(a)(3), the circumstances of such loss must be provided (in-transit, theft from premises, etc.).

(c) For purposes of this section, normal business records shall be considered adequate if they contain the information listed in paragraph (a) of this section, and are retrievable from other business records of the regulated person.

(d) A suggested format for the reports is provided below:

Supplier:
Name _____
Business Address _____
City _____
State _____
Zip _____
Business Phone _____
Purchaser:
Name _____
Business Address _____
City _____
State _____
Zip _____
Business Phone _____
Identification _____
Shipping Address (if different that purchaser address):
Street _____
City _____
State _____
Zip _____
Date of Shipment _____
Name of Listed Chemical(s) _____
Quantity and Form of Packaging _____
Description of Machine:
Make: _____
Model: _____
Serial # _____
Method of Transfer _____
If Loss or Disappearance:
Date of Loss _____
Type of Loss _____

Public reporting burden for this collection of information is estimated to average ten minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Drug Enforcement Administration, Records Management Section, Washington, DC 20537; and to the Office of Management and Budget, Paperwork Reduction Project No. 1117-xxxx, Washington, DC 20503.

**§ 1310.7 Proof of identity.**

Each regulated person who engages in a regulated transaction must identify the other party to the transaction. This should be accomplished by having the purchaser present some document which would verify the identity of the purchaser to the regulated person. The type of documents and other evidence of proof must consist of at least purchase documents and signature of the purchaser or the purchaser's agent in the case of business entities or a drivers license and other identification for sales to individuals or cash purchasers. When transacting business with a new representative of a firm, the regulated person must verify the agency of the representative. The regulated person should attempt to verify the existence of a business entity if the regulated person is not familiar with that business or has some reason to question the validity of the business. This may be accomplished by such methods as checking the telephone directory, the local credit bureau, the local Chamber of Commerce or the local Better Business Bureau.

2. A new Part 1313 is proposed to be added to read as follows:

## PART 1313—IMPORTATION AND EXPORTATION OF PRECURSORS AND ESSENTIAL CHEMICALS

Sec.



Authority: 21 U.S.C. 802, 830, 871(b), 971.

**§ 1313.1 Scope.**

Procedures governing the importation, exportation, transshipment and intransit shipment of precursors and essential chemicals pursuant to section 1018 of the Act (21 U.S.C. 971) are governed generally by those sections and specifically by the sections of this part.

**§ 1313.2 Definitions.**

As used in this part, the following terms shall have the meanings specified:

(a) The term "chemical export" means with respect to a listed chemical or chemicals, any taking out or removal of such article from the jurisdiction of the United States (whether or not such taking out or removal constitutes an exportation within the meaning of the Customs and related laws of the United States) that is not in conflict with the laws of the country to which it is intended for import.

(b) The term "chemical exporter" includes every regulated person who exports, or who acts as an export broker or forwarding agent for a chemical export. In the event that the broker or forwarding agent does not take title or possession of the chemical export, such broker or forwarding agent will not be considered a chemical exporter for purposes of Part 1313 unless the chemical exporter and the broker or forwarding agent have reached an agreement of which the Administrator has been informed in writing at the earliest possible time that specifies which of the two parties will be responsible for the filing of the Precursor and Essential Chemical Import/Export Declaration (DEA form 486) notifying the Administrator of each chemical export.

(c) The term "chemical import" means, with respect to a listed chemical, any bringing in or introduction of such article into either the jurisdiction of the United States or the Customs territory of the United States, and from the jurisdiction of the United States into the Customs territory of the United States (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

(d) The term "chemical importer" includes every regulated person who imports, or who acts as an import broker or forwarding agent for a chemical import. In the event that the broker or forwarding agent does not take title to or possession of the chemical import, such broker or forwarding agent will not be considered a chemical importer for purposes of Part 1313 unless the chemical importer and the broker or forwarding agent have reached an agreement of which the Administrator has been informed in writing at the earliest possible time that specifies which of the two parties will be responsible for the filing of the Precursor and Essential Chemical Import/Export Declaration (DEA Form 486) notifying the Administrator of each chemical import.

(e) The term "regular customer" means a person with whom the regulated person has an established business relationship for a specified listed chemical or chemicals that is reported to and accepted by the Administration.

(f) The term "regular supplier" means a supplier with whom the regulated person has an established business relationship that is reported to the Administration.

(g) The term "Customs territory of the United States" means the several states, the District of Columbia, and Puerto Rico.

(h) The term "jurisdiction of the United States" means the Customs territory of the United States, the Virgin Islands, the Canal Zone, Guam, American Samoa, and Palau.

(i) Any term not defined in this section shall have the definition set forth in section 102 and 1001 of the Act (21 U.S.C. 802 and 951) and § 1301.2 of this chapter.

**Importation of Precursors and Essential Chemicals**

**§ 1313.12 Requirement of authorization to import.**

(a) No person shall import or cause to be imported any chemical listed in § 1310.2 which meets or exceeds the threshold quantities identified in § 1310.5, until such time a DEA Form 486 has been filed with the Administrator.

(b) A DEA Form 486 must be furnished to the Drug Enforcement Administration, Drug Control Section, P.O. Box (to be designated), for all regulated, chemical import transactions. However, the 15-day advance notification requirement found in § 1313.13 is waived for chemical importers who have completed the requirements of § 1313.15. The DEA Form 486 must be provided in this instance on or before the date of importation.

**§ 1313.13 Contents of import declaration**

(a) Any precursor or essential chemical listed in § 1310.2 may be imported if that chemical is necessary for medical, commercial, scientific, or other legitimate uses within the United States. Chemical importations into the United States for immediate transfer/transshipment outside the United States must comply with the procedures outlined in § 1313.31.

(b) Any regulated person who desires to import a threshold or greater quantity of a listed chemical must furnish the Drug Enforcement Administration, Drug Control Section, P. O. Box (to be designated), with a completed DEA Form 486 at least 15 days prior to the date of importation and distribute four copies of this form as directed in § 1313.14.

(c) The DEA Form 486 must be executed in quintuplicate and will include the following information:

(1) The name, address, telephone and telex numbers of the regulated, chemical importer, the name, address, and telephone and numbers of the broker or forwarding agent (if any); and

(2) The complete name and description of each listed chemical to be imported, the size or weight of container, the number of containers, the net weight of each listed chemical given in kilograms or parts thereof; and the gross weight of the shipment given in kilograms or parts thereof; and

(3) The proposed import date, the foreign port of exportation to the United States, and the first U.S. Customs Port of Entry; and

(4) The name, address, telephone number, and telex number (if known) of the consignor in the foreign country of exportation, the name(s) and address(es) of any intermediate consignor(s), and any license numbers if the consignor is required to have such numbers by the country of exportation.

**§ 1313.14 Distribution of import declaration.**

The required five copies of the precursor and essential chemical import declaration (DEA Form 486) will be distributed as follows:

(a) Copy 1, Copy 2, and Copy 3 shall be transmitted to the foreign shipper. The foreign shipper will submit Copy 1 to the proper governmental authority in the foreign country, if required as a prerequisite to export authorization. Copy 1 will then accompany the shipment to its destination, and shall be retained on file by the chemical importer. Copy 2 will accompany the shipment and be available for use by the appropriate customs official of the exporting country. Copy 3 shall accompany the shipment and be available for inspection and removal by an official of the U.S. Customs at the time of entry.

(b) Copy 4 shall be forwarded within the time limit specified in § 1313.13(b), directly to the Drug Enforcement Administration, Drug Control Section, Import/Export Unit, P.O. Box (to be designated).

(c) Copy 5 shall be retained on file by the regulated person as the record of authorization to import. Import declaration forms involving a listed procursor chemical must be retained for four years; declaration forms for listed essential chemicals must be retained for two years.

**§ 1313.15 Waiver of 15-day advance notice for chemical importers.**

(a) The Administrator shall determine whether a chemical importer shall be exempt from the 15-day advance notice requirement for filing the Precursor and Essential Chemical Import/Export Declaration (DEA Form 486) required by § 1313.13 for importations from regular suppliers.

(b) The Administrator shall grant regular suppliers status to the supplier or suppliers of a chemical importer if the Administrator determines that:

(1) The current supplier or suppliers submitted for consideration under paragraph (c) of this section has an established business relationship with the chemical importer; and

(2) The chemical imports are to be used for legitimate medical, scientific or commercial reasons, and are being received from a regular supplier.

(c) The Administrator shall consider the following factors in making a determination:

(1) The name and location of the chemical importer;

(2) The nature of the chemical importer's business (i.e., importer, exporter, broker, forwarding agent, distributor, manufacturer, etc.);

(3) The listed chemical or chemicals imported by the chemical importer and the use to which the listed chemical or chemicals will be applied;

(4) The names, street addresses, and telephone and telex numbers of the customers of the chemical importer to whom chemical imports are supplied;

(5) The names, street addresses, and telephone and telex numbers of the chemical importer's suppliers;

(6) The frequency and number of import transactions of a listed chemical or chemicals occurring in the preceding two year period;

(7) The method of delivery (direct shipment or through a broker or forwarding agent); and

(8) Any other information submitted by the chemical importer that may be considered relevant.

(d) The chemical importer should submit the information listed in paragraph (c) of this section, as well as the street address, name of a contact person and telephone number of that person to the Administrator in order that a determination be made as to whether the 15-day advance notice requirement should be waived.

(e) The information submitted must be received by the Administrator not later than 30 days after the publication of the final order pertaining to Part 1313 and shall be sent to the Drug Enforcement Administration, Office of Diversion Control, P.O. Box (to be designated).

(f) If upon the filing of a declaration for a chemical shipment from a supplier who has not been determined by the Administrator to be a regular supplier pursuant to paragraph (b) of this section and if upon the expiration of the 15-day advance notice the Administrator has not notified the chemical importer in writing to the contrary, the supplier will automatically become a regular supplier for purposes of this section.

(g) In the event that the chemical importer should relocate, change ownership, import listed chemicals which were not previously imported, or add a new customer, the chemical importer shall advise the Administrator of the appropriate changes. The Administrator shall make a new determination on the waiver of the 15-day advance notice requirement upon evaluating the new information.

(h) All chemical importers shall be required to file a DEA Precursor and Essential Chemical Import/Export Declaration (DEA Form 486) as required by § 1313.13 for all chemical imports.

(i) The Administrator may determine that a chemical importer who has been granted an exemption under this section for specific regular suppliers is no longer entitled to the waiver of the 15-day advance notice requirement if the Administrator determines that the chemical importer has:

(1) Failed to provide notification of shipments as required by 1313.13;

(2) Failed to comply with the requirements of paragraph (g) of this section;

(3) Engaged in activities in violation of the Act; or

(4) Diverted or aided in the diversion of imported chemicals to the clandestine manufacturer of an illicit controlled substance.

(j) The chemical importer will be notified in writing by the Administrator if such waiver is rescinded and the reasons for such action.

**Exportation of Precursors and Essential Chemicals**

**§ 1313.21 Requirement of authorization to export.**

(a) No person shall export or cause to be exported from the United States any chemical listed in § 1310.2, which meets or exceeds the threshold quantities identified in § 1310.5, until such time a DEA Form 486 has been filed with the Administrator.

(b) No person shall export or cause to be exported any listed chemical which is in violation of the law of the country to which the listed chemical is exported.

(c) A DEA Form 486 must be furnished to the Drug Enforcement Administration, Drug Control Section, P.O. Box (to be designated) for all regulated, chemical export transactions. However, the 15-day advance notification requirement found in § 1313.22 is waived for chemical exporters who have satisfied the "regular customer" considerations of § 1313.24.

**§ 1313.22 Contents of export declaration.**

(a) Any precursor or essential chemical listed in § 1310.2 which meets or exceeds the quantitative threshold criteria established in § 1310.5 may be exported if that chemical is needed for medical, commercial, scientific, or other legitimate uses.

(b) Any regulated person authorized to export and desiring to export a threshold or greater quantity of a listed chemical must complete a DEA Form 486 which must be received by the Drug Enforcement Administration at least 15 days prior to the date of exportation and distribute four copies of the form as directed in § 1313.23.

(c) The DEA Form 486 must be executed in quintuplicate and will include the following information:

(1) The name, address, and telephone and telex numbers of the regulated, chemical exporter, and the name, address, and telephone number of the exporter broker, if any;

(2) A complete description of the listed chemical to be exported, the size or weight of container, the number of containers, the net weight of each listed chemical given in kilograms or parts thereof; and the gross weight of the shipment given in kilograms or parts thereof;

(3) The proposed export date, the U.S. Customs port of exportation, and the foreign port of entry; and

(4) The name, address, telephone number and telex number (if known) of the consignee in the country of destination, the name(s) and address(es) of any intermediate consignee(s), and any license numbers if the consignee is required to have such numbers by the country of importation.

(d) Notwithstanding the time limitations included in paragraph (b) of this section, a regulated person may receive a waiver of the 15-day advance notification requirement following the procedures outlined in § 1313.24.

(e) Declared exports of listed chemicals which are refused, rejected, or otherwise deemed undeliverable may be returned to the U.S. exporter upon receiving written authorization by the Drug Enforcement Administration. The regulated person must first forward a completed import declaration with a

letter detailing the circumstances of the return.

**§ 1313.23 Distribution of export declaration**

The required five copies of the precursor and essential chemical export declaration (DEA Form 486) will be distributed as follows:

(a) Copy 1 shall accompany the shipment and remain with the shipment to its destination.

(b) Copy 2 shall accompany the shipment and will be available for use by the appropriate customs official at the foreign country of destination.

(c) Copy 3 shall accompany the shipment and will be attached to the "Dock Receipt" and made available for inspection by U.S. Customs prior to export. Copy 3 shall be available for inspection and removal of an official of the U.S. Customs Service at the port of exportation.

(d) Copy 4 shall be forwarded, within the time limit required in § 1313.22 of this part, directly to the Drug Enforcement Administration, Drug Control Section, P.O. Box (to be designated).

(e) Copy 5 shall be retained by the chemical exporter on file as his record of authority for the exportation. Export declaration forms involving a precursor chemical must be retained for four years; export declarations for essential chemicals must be retained for two years.

**§ 1313.24 Waiver of 15-Day Advance notice for chemical exporters.**

(a) The Administrator shall determine whether a chemical exporter shall be exempt from the 15-day advance notice requirement for filing the Precursor and Essential Chemical Import/Export Declaration (DEA Form 486) required by § 1313.21 for exportations to regular customers.

(b) The Administrator shall grant regular customer status to the customer or customers of a chemical exporter if:

(1) The Administrator determines that the current customer or customers submitted for consideration under paragraph (d) of this section have an established business relationship with the chemical exporter; or

(2) Upon the filing of a declaration for a chemical shipment to a customer who has not been determined by the Administrator to be a regular customer pursuant to paragraph (c) of this section and if upon the expiration of the 15-day advance notice the Administrator has not notified the chemical exporter in writing to the contrary, the customer will automatically become a regular customer for purposes of this section.

(c) Each chemical exporter whose customer becomes a regular customer as a result of the conditions mentioned in paragraph (b)(2) of this section shall be exempt from the 15-day advance notice requirement for exportations with that customer occurring pursuant to § 1313.21; however, the chemical exporter must ensure that a declaration has been forwarded to the Administrator not later than the date of shipment for all future shipments to the regular customer.

(d) The Administrator shall determine if the chemical exporter and a customer have a bona fide established business relationship upon evaluating the information provided by the chemical exporter to the Administrator. To facilitate the determination of this section regarding the status of a chemical exporter's regular customer or customers, each chemical exporter as defined in § 1313.2 shall provide the Administrator with a list of each customer who is a purchaser of a listed chemical or chemical who has an active, established business relationship with the chemical exporter regarding a listed chemical or chemicals which includes a history of previous purchases. The list shall be provided not later than 30 days after the publication of the regulations pertaining to Part 1313 and shall be sent to the Drug Enforcement Administration, Office of Diversion Control, P.O. Box (to be designated). It shall include the following information:

(1) The name and street address of the chemical exporter and of each regular customer;

(2) The telephone and telex number and contact person for the chemical exporter and for each regular customer;

(3) The nature of the regular customer's business (i.e., importer, exporter, broker, distributor, manufacturer, etc.) and use to which the listed chemical or chemicals will be applied;

(4) The duration of the business relationship;

(5) The frequency and number of transactions occurring during the preceding two year period;

(6) The amounts and the listed chemical or chemicals involved in regulated transactions between the chemical exporter and the regular customer;

(7) The method of delivery (direct shipment or through a broker or forwarding agent); and

(8) Any other information submitted by the chemical exporter that the exporter considers relevant for determining whether a customer is a regular customer.

(e) Unless notified in writing to the contrary, each chemical export to a regular customer submitted for consideration under paragraph (d) of this section who is determined by the Administrator to have a bona fide established business relationship with the chemical exporter shall be exempt from the 15-day advance notice requirement for exportations occurring pursuant to § 1313.21.

(f) In the event that the chemical exporter or the regular customer should relocate, change ownership, add a listed chemical or chemicals destined for exportation, or should any other significant factor contained in the original submission under § 1313.24(d) change, the chemical exporter shall advise the Administrator of the appropriate changes. Upon evaluating the new information, the Administrator shall make a new determination on the status of the regular customer.

(g) Chemical exporters shall file the DEA Precursor and Essential Chemical Import/Export Declaration (DEA Form 486) required in § 1313.21 for each chemical export of a threshold or greater amount of a listed chemical or chemicals to a regular customer. The declaration must be forwarded to the Administrator not later than the date of shipment.

(h) The Administrator may:

(1) Notify any chemical exporter that a regular customer has been disqualified or that a new customer for whom a declaration has been submitted is not to be accorded the status of a regular customer; or

(2) Determine that a chemical exporter who has been granted an exemption under this section is no longer entitled to the waiver of the 15-day advanced notice requirement.

(i) The chemical exporter will be notified in writing by the Administrator if such disqualification should occur or if the waiver of the 15-day advance notice is rescinded and the reasons for such action.

(j) The 15-day advance notice requirement will not be waived for listed precursor chemicals included in Table I of the Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances.

Public reporting (one-time) burden for this collection of information is estimated to average four hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing and collection of information. Send comments regarding this burden estimate or any other aspect of this collection of

information, including suggestions for reducing this burden to the Drug Enforcement Administration, Records Management Section, Washington, DC 20537; and to the Office of Management and Budget, Paperwork Reduction Project No. 1117-xxxx, Washington, DC 20503

**Transhipment and In-Transit Shipment of Precursors and Essential Chemicals**

**§ 1313.31 Advance notice of importation for transshipment or transfer.**

(a) A quantity of a chemical listed in § 1310.2 that meets or exceeds the threshold reporting requirements found in § 1310.5 may be imported into the United States for transshipment, or may be transferred or transshipped within the United States for immediate exportation, provided that advance notice is given to the Drug Enforcement Administration.

(b) Each advance notice shall contain the following information and be furnished to the Drug Enforcement Administration, Drug Control Section, P.O. Box (to be designated) at least 15 days prior to the proposed chemical importation into the United States:

(1) The date the notice was executed;

(2) The complete name and description of the listed chemical to be imported;

(3) The number of containers, and the size or weight of container for each listed item;

(4) The net weight of each listed chemical given in kilograms or parts thereof;

(5) The gross weight of the shipment given in kilograms of parts thereof;

(6) The name, address, telephone number and telex number (if known), and business of the foreign exporter;

(7) The foreign port of exportation;

(8) The approximate date of exportation;

(9) The complete identification of the exporting carrier;

(10) The name, address, business, and telephone number of the importer, transferror, or transshipper;

(11) The U.S. port of entry;

(12) The approximate date of entry;

(13) The name, address, telephone number and telex number (if known), and business of the consignee at the foreign port of entry;

(14) The shipping route from the U.S. port of exportation to the foreign port of entry at final destination;

(15) The approximate date of receipt by the consignee at the foreign port of entry; and

(16) The signature of the importer, transferror or transshipper, or his agent, accompanied by the agent's title.

(c) Unless notified to the contrary prior to the expected date of delivery, the importation for transshipment or transfer is considered approved.

(d) No waiver of the 15-day advance notice will be given for imports of listed chemicals in quantities meeting or exceeding threshold quantities for transshipment or transfer outside the United States.

**§ 1313.41 Suspension of shipments.**

(a) The Administrator may suspend any importation or exportation of a chemical listed in § 1310.2 based on evidence that the chemical proposed to be imported or exported may be diverted to the clandestine manufacture of a controlled substance. If the Administrator so suspends, he shall provide written notice of such suspension to the regulated person. Such notice shall contain a statement of the basis for the order.

(b) Upon service of the order of suspension, the regulated person to whom the order applies under paragraph (a) of this section must, if he desires a hearing, file a written request for a hearing pursuant to §§ 1313.51—1313.57.

**Hearings**

**§ 1313.51 Hearings generally.**

In any case where a regulated person requests a hearing regarding the suspension of a shipment of a listed chemical, the procedures for such hearing shall be governed generally by the procedures set forth in the Administrative Procedures Act (5 U.S.C. 551-559) and specifcally by section 6053 of the Chemical Diversion and Trafficking Act (Pub. L. 100-690), by 21 CFR 1313.52-1313.57, and by the procedures for administrative hearings under the Controlled Substances Act set forth in §§ 1316.41-1316.67 of this chapter.

**§ 1313.52 Purpose of hearing.**

If requested by a person entitled to a hearing, the Administrator shall cause a hearing to be held for the purpose of receiving factual evidence regarding the issues involved in the suspension of shipments within 45 days of the date of the request, unless the requesting party requests an extension of time.

**§ 1313.53 Waiver of modification of rules.**

The Administrator or the presiding officer (with respect to matters pending before him) may modify or waive any rule in this part by notice in advance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

**§ 1313.54 Request for hearing.**

Any person entitled to a hearing pursuant to § 1313.52 and desiring a hearing shall, within 30 days after receipt of the notice to suspend the shipment, file with the Administrator a written request for a hearing in the form prescribed in § 1316.47 of this chapter.

**§ 1313.55 Burden of proof.**

At any hearing regarding the suspension of shipments, the Agency shall have the burden of providing that the requirements of this part for such suspension are satisfied.

**§ 1313.56 Time and place of hearing.**

(a) If any regulated person requests a hearing on the suspension of shipments, a hearing will be scheduled no later than 45 days after the request is made, unless the regulated person requests an extension to this date.

(b) The hearing will commence at the place and time designated in the notice given pursuant to paragraph (a) of this section but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

**§ 1313.57 Final order.**

As soon as practicable after the presiding officer has certified the record to the Administrator, the Administrator shall issued his order on the determination on the suspension of shipment. The order shall include the findings of fact and conclusions of law upon which the order is based. The Administrator shall serve one copy of his order upon each party in the hearing.

Date: January 23, 1989.

**John C. Lawn,**

*Administrator, Drug Enforcement Administration.*

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## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Part 180**

**[PP 8E3676/P477; FRL-3513-5]**

## Pesticide Tolerance for Glyphosate

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes that a tolerance be established for the combined residues of the herbicide glyphosate and its metabolite in or on the raw agricultural commodity crop group bulb vegetables. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the crop group commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

**DATE:** Comments, identified by the document control number [PP 8E3676/P477], must be received on or before March 10, 1989.

**ADDRESS:** By mail, submit written comments to:

Public Docket and Freedom of Information Section, Field Operations Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to:

Rm. 246, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington DC 20460.

Office location and telephone number:

Rm. 716C, CM # 2, 1921 Jefferson Davis Highway Arlington, VA 22202, (703)-557-2310.

**SUPPLEMENTARY INFORMATION:** The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 8E3676 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Stations of California, Florida, Michigan, and New York.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine), and its metabolite aminomethylphosphonic acid (AMPA) in or on the raw agricultural commodity onions at 0.2 part per million (ppm). The petition was later amended to propose a tolerance for residues of glyphosate at 0.2 ppm in or on commodities of the bulb vegetable crop group, which consists of the raw agricultural commodities garlic, leeks, onions (green and dry bulb), and shallots.

The proposed tolerance for the bulb vegetable crop group replaces, in part, the existing glyphosate tolerance for root crop vegetables at 0.2 ppm. The root crop vegetable group consists of the raw agricultural commodities garlic, leeks, onions, and shallots, as well as beets carrots, chickory, horseradish, Jerusalem artichokes, parsnips, potatoes, radish, rutabagas, salsify, sugarbeets, sweet potatoes, turnips, and yams.

The term "root crop vegetables" is a crop group designation that was used prior to the revision of 40 CFR 180.34(f), the Crop Group Regulations, which was published in the **Federal Register** on June 29, 1983 (48 FR 29855). Establishment of the proposed tolerance for bulb vegetables allows the deletion of the existing glyphosate tolerance for root crop vegetables. Glyphosate tolerances for the remaining raw agricultural commodities from the root crop vegetable group that do not belong to the bulb vegetable crop group are retained by listing individual tolerances at 0.2 ppm for the following commodities: Beets, carrots, chickory, horseradish, Jerusalem artichokes, parsnips, potatoes, radishes, rutabagas, salsify, sugar beets, sweet potatoes, turnips, and yams.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A three-generation rat reproduction study with a no-observed-effect level (NOEL) of 10 milligrams (mg) per kilogram (kg) per day.

2. A chronic feeding/oncogenicity study in rats with a systemic NOEL of 31 mg/kg/day, which was negative for oncogenic potential under the conditions of the study at all feeding levels tested (0, 3, 10, and 31 mg/kg/day). Although the rat study meets the requirement for a chronic feeding study, it does not satisfy guideline requirements for an oncogenicity study. There is no evidence that the highest dose tested (31 mg/kg/day) was a toxic or maximum-tolerated dose (MTD).

3. A 1-year dog feeding study with a systemic NOEL of 500 mg/kg/day (highest dose tested).

4. A rat teratology study, negative for teratogenic effects at 3,500 mg/kg/day (highest dose tested), with maternal and developmental toxicity NOELs of 1,000 mg/kg/day.

5. A rabbit teratology study, negative for teratogenic effects at 350 mg/kg/day (highest dose tested), with a maternal NOEL of 175 mg/kg/day and a developmental toxicity NOEL of 350 mg/kg/day.

6. Mutagenicity studies as follows: Chromosomal aberration *in vitro* (no aberrations in Chinese hamster ovary cells were caused with or without S-9 activation); DNA repair in rat hepatocytes (negative); *in vivo* bone marrow cytogenic in rats (negative); rec-assay with *B. subtilis* (negative up to 2,000 micrograms of test material per disk); reverse mutation with *S. typhimurium* (negative); Ames test with *S. typhimurium* (negative); and a dominant lethal test in mice (negative).

Additionally, a 2-year oncogenicity study in CD-1 mice has been completed and reviewed by the Agency. Feeding levels in this study were 1,000, 5,000 and 30,000 ppm (equivalent to 150, 750, and 4,500 mg/kg/day, respectively). The NOEL for nonneoplastic chronic effects was established at 5,000 ppm. In this study, glyphosate produced an equivocal oncogenic response, possibly causing a slight increase in the incidence of renal tubular adenomas (a benign tumor of the kidney) in male mice at the highest dose tested (30,000 ppm). Because of the equivocal nature of the oncogenic response in mice and the lack of an acceptable oncogenicity study in rats, the Agency referred the issue to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Science Advisory Panel (SAP) for a "Weight-of-Evidence" recommendation. After reviewing all available evidence, the SAP concluded that the oncogenic potential of glyphosate could not be determined from the available information and recommended that the mouse and/or rat studies be repeated to clarify unresolved questions. Subsequently, the Agency classified glyphosate as a "Category D Oncogen" (inadequate evidence of oncogenicity) and requested repeat oncogenicity studies in both mice and rats. The rat

oncogenicity study is due in 1990 and a repeat study in male mice is due in 1992.

Current Agency policy is to establish tolerances for significant new uses of glyphosate on a case-by-case basis. Tolerances which change the theoretical maximum residue contribution (TMRC) by more than 1 percent are generally considered significant.

The acceptable daily intake (ADI), based on the NOEL of 10 mg/kg/day from the rat reproduction study and using a 100-fold safety factor, is calculated to be 0.1 mg/kg/ of body weight (bw)/day. The TMRC from existing tolerances for a 1.5-kg/daily diet is calculated to be 0.004987 mg/kg/day. The tolerance for onions will not result in an increase in the TMRC because of the already established tolerance on root crops. Published tolerances utilize 5.0 percent of the ADI; the current action does not increase the percent of the ADI utilized.

No secondary residues in meat, milk, poultry, or eggs are anticipated since the bulb vegetable crop group commodities are not considered livestock feed commodities. The nature of the residues is adequately understood and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. An analytical enforcement method is currently available in the *Pesticide Analytical Manual* (PAM), Vol. II. There are currently no actions pending against the continued registration of this chemical.

Based on the data and information considered, the Agency concludes that the tolerance proposed would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 8E3676/P477]. All written comments filed in response to this petition will be available in the Public Docket and Freedom of Information Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

### List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: January 18, 1989.

**Anne E. Lindsay,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

## PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.364 is amended by removing the existing entry for root crop vegetable group and by adding and alphabetically inserting the commodity crop group bulb vegetables and the raw agricultural commodities beets, carrots, chickory, horeseradish, Jerusalem artichokes, parsnips, potatoes, radishes, rutabagas, salsify, sugar beets, sweet potatoes, turnips and yams, to read as follows:

**§ 180.364 Glyphosate; tolerances for residues.**

(a) * * *

| Commodities | Parts per million |
|---|---|
| * * * * * | |
| Artichokes, Jerusalem | 0.2 |
| * * * * * | |
| Beets | 0.2 |
| * * * * * | |
| Bulb vegetables | 0.2 |
| * * * * * | |
| Carrots | 0.2 |
| Chickory | 0.2 |
| * * * * * | |
| Horseradish | 0.2 |
| * * * * * | |
| Parsnips | 0.2 |
| * * * * * | |
| Potatoes | 0.2 |
| Radishes | 0.2 |
| Rutabagas | 0.2 |
| * * * * * | |
| Salisfy | 0.2 |
| * * * * * | |
| Sugar beets | 0.2 |
| Sweet potatoes | 0.2 |
| * * * * * | |
| Turnips | 0.2 |
| * * * * * | |
| Yams | 0.2 |
| * * * * * | |

[FR Doc. 89-2425 Filed 2-7-89; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 300

**[FRL 3515-8]**

## National Oil and Hazardous Substances Pollution Contingency Plan; Hazard Ranking System (HRS) For Uncontrolled Hazardous Substance Releases; Appendix A of the National Oil and Hazardous Substances Contingency Plan; Extension of Comment Period

**AGENCY:** Environmental Protection Agency.

**SUMMARY:** In December 1988, the Environmental Protection Agency (EPA) proposed revisions to both the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (53 FR 51394, December 21, 1988) and the Hazard Ranking System (HRS) (53 FR 51962, December 23, 1988). In response to requests from the public, the Agency is extending the comment period on both proposed regulations from February 21, 1989 to March 23, 1989.

**DATES:** Comments must be received on or before March 23, 1989.

**ADDRESSES:** Comments may be mailed or delivered to the Superfund Docket, mail code OS-240, Superfund Docket Room 2427, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Separate comments should be sent for each proposed regulation. Written comments on the proposed revisions to the NCP should be submitted in triplicate, atten: Docket Number NCP-R2. Written comments on the proposed revisions to the HRS should be submitted in quadruplicate, attn: Docket Number 105 NCP-HRS. The public docket for the NCP and the HRS contain all relevant background material supporting these revisions.

Requests for copies of these documents should be made to the Superfund Docket Office, Room 2427,

U.S. Environmental Protection Agency. 401 M Street, SW., Washington, DC 20460, phone 202–382–3046. The docket is available for viewing by appointment only from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION:** Contact Tod Gold (OS–240) for information on the NCP revisions and Steve Caldwell or Jane Metcalfe (OS–230) for information on the HRS revisions, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or the Superfund Hotline, phone 800–424–9346 (or 382–3000 in the Washington, DC metropolitan area).

**SUPPLEMENTARY INFORMATION:** On December 21, 1988, the Environmental Protection Agency proposed revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The Superfund Amendments and Reauthorization Act of 1986 (SARA) amends existing provisions of and adds major new authorities to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Futhermore, SARA mandates that the NCP be revised to reflect these amendments. The proposed NCP revisions are intended to implement regulatory changes necessitated by SARA, as well as to clarify existing NCP language and to reorganize the NCP to coincide more accurately with the sequence of response actions (53 FR 51394).

On December 23, 1988, the Agency also published revisions to the Hazard Ranking System, the principal mechanism for placing sites on the National Priorities List (NPL). The NPL is a list of releases and potential releases of hazardous substances, pollutants or contaminants that are eligible for Superfund-financed remedial actions. These revisions would change the way EPA evaluates potential threats to public health and the environment from hazardous waste sites and may affect the type and number of such sites included on the NPL. These revisions are designed to make the Hazard Ranking System more accurate in assessing relative potential risk as well as to meet other statutory requirements (53 FR 51962).

The Agency received several requests for an extension of the comment period. In order to provide the public sufficient time to comment on these rules, EPA is extending the comment period until March 23, 1989. This extension will give all members of the public adequate time to comment fully on both proposed regulations.

The deadline for all comments pertaining to the material published at 53 FR 51394 and 53 FR 51962, is March 23, 1989.

Dated: February 2, 1989.

**Jonathan Cannon,**

*Acting Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 89–2986 Filed 2–7–89; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 88–266, RM–6069]**

### Radio Broadcasting Services; Grundy Center, IA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal of.

**SUMMARY:** The Commission grants the request of Stoner Broadcasting System for the dismissal of its petition for rule making seeking the substitution of Channel 241A for Channel 249A at Grundy Center, Iowa, and the modification of Station KGGI(FM)'s license accordingly. With this action, this proceeding is terminated.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88–266, adopted January 18, 1989, and released February 2, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89–2941 Filed 2–7–89; 8:45 am]

BILLING CODE 6712–01–M

### 47 CFR Part 73

**[MM Docket No. 88–156; RM–6018]**

### Radio Broadcasting Services; Mora and Nisswa, MN

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule, dismissal of proposal.

**SUMMARY:** A Notice of Proposed Rule Making was issued in response to a petition filed by John Godfrey, proposing the allotment of Channel 227C1 to Mora, Minnesota, as that community's second FM service. The proposal required the deletion of Channel 227C (vacant) at Nisswa, Minnesota. Since the release of the *Notice* (April 18, 1988), two applications have been filed for the channel at Nisswa. A staff study determined there were no other Class C channels available for Nisswa and no other Class C1 channels available for Mora. Our study also indicated that downgrading the class of the Nisswa channel would not eliminate the short spacing to the Mora proposal. We could find no sufficient justification to delete a channel which could provide a first FM service to Nisswa and for which two applications are pending in order to provide a second FM service to Mora. Accordingly, the proposal in this proceeding to allot Channel 227C1 to Mora, Minnesota, by deleting Channel 227C from Nisswa, Minnesota, is denied. With this action, this proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 88–156, adopted December 20, 1988, and released January 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio Broadcasting

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

Federal Communications Commission.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2942 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 89-7, RM-6573]**

## Radio Broadcasting Services; Kimberling City, MO

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by Arthur C. Morris, proposing the allotment of FM Channel 261A to Kimberling City, Missouri. There is a site restriction 7.3 kilometers south of the community at coordinates 36-34-27 and 93-25-16. The allotment of Channel 261A at Kimberling City is contingent on the outcome of MM Docket 87-474 (2 FCC Rcd 6690 (1987)), which proposes to substitute Channel 263C2 for Channel 261A at Aurora, Missouri.

**DATES:** Comments must be filed on or before March 27, 1989, and reply comments on or before April 11, 1989.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Arthur C. Morris, Rt. 1 Box 350B, Bolivar, Missouri 65613.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-7, adopted January 11, 1989, and released February 2, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**Steve Kaminer,**

*Deputy Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 89-2943 Filed 2-7-89; 8:45 am]

BILLING CODE 6712-01-M

# Notices

Federal Register
Vol. 54, No. 25
Wednesday, February 8, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forms Under Review by Office of Management and Budget

February 3, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

**Extension**

• *Agricultural Marketing Service*
Honey Research, Promotion, and Consumer Information Order
None
Recordkeeping; On occasion; Monthly, Semi-annually
Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 40,150 responses; 3,838 hours; not applicable under section 3504(h)
Virginia M. Olson, (202) 475–3930

• *Food Safety and Inspection Service*
Regulations Governing Poultry Inspection
FSIS, 11,300–2, FSIS 11,300–3, FSIS 11,300–4, FSIS 11,300–5, FSIS 6800–8, MP 528, FSIS 6500–1, FSIS 6500–2, FSIS 6500–3, FSIS 9061–1, FSIS 6000–17, MP 2, FSIS 6510–7, MP 112, FSIS 9540–1
On occasion; Quarterly
Individuals or households; State or local governments; Businesses or other for-profit; Small businesses or organizations; 740,899 responses; 70,562 hours; not applicable under section 3504(h)
Roy Purdie Jr., (202) 447–5372

• *Agricultural Marketing Service*
Reporting requirements under regulations governing the inspection and grading services of manufactured processed dairy products. DA 125, 132, 155
On occasion
Businesses or other for-profit; 9,261 responses; 857 hours; not applicable under section 3504(h)
Lynn G. Boerger, (202) 382–9381

**New Collection**

• *Food and Nutrition Service*
Redemption Accountability Pilot-Food Stamp Processing Questionnaire
None
One time only
Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 350 responses; 350 hours; not applicable under section 3504(h)
David M. Temoshok, (703) 756–3048.

**Jane A. Benoit,**
*Departmental Clearance Officer.*

[FR Doc. 89–2984 Filed 2–7–89; 8:45 am]
BILLING CODE 3410–01–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–003]**

### Fireplace Mesh Panels From Taiwan; Final Results of Antidumping Duty Administrative Review

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On December 9, 1988, the Department of Commerce published the preliminary results of antidumping duty administrative review of the antidumping duty order on fireplace mesh panels from Taiwan. The review covers four manufacturers and/or exporters of this mechandise to the United States and the period June 1, 1987 through May 31, 1988.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

**EFFECTIVE DATE:** February 8, 1989.

**FOR FURTHER INFORMATION CONTACT:** Arthur N. DuBois or Phyllis Derrick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–8312/2923.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 9, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 49718) the preliminary results of its administrative review of the antidumping duty order on fireplace mesh panels from Taiwan (47 FR 24616, June 7, 1982). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of the Review**

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted

to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of fireplace mesh panels. Such panels are defined as precut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of the kind used in the manufacture of safety screening for fireplaces. During the review period, such merchandise was classifiable under items 642.7800 and 654.0045 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS items 7314.49.00 and 7323.99.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers four manufacturers and/or exporters of this merchandise to the United States and the period June 1, 1987, through May 31, 1988.

### Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review. The Department has determined that a dumping margin of 6.4 percent exists for Yeh Sheng Wire Mesh & Screen Co., Ltd., Tah Chung Iron of Superior Quality Co., Ltd., Yeh Sheng Wire Mesh & Screen Co./Taipoly Industries Ltd., and Dalvey Products Supply, Ltd. for the period June 1, 1987, through May 31, 1988. The Department will instruct the Customs Service to assess antidumping duties at that rate on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, the Department will require a cash deposit of estimated antidumping duties of 6.4 percent for Yeh Sheng Wire Mesh & Screen Co., Ltd., Tah Chung Iron of Superior Quality Co., Ltd., Yeh Sheng Wire Mesh & Screen Co./Taipoly Industries Ltd., & Dalvey Products Supply, Ltd. For any future shipments from the remaining known exporters not covered in this review, a cash deposit of 6.4 percent shall be required as published in the final results of the last administrative review (53 FR 16179, May 5, 1988). For any future entries of this merchandise from a new exporter not covered in this or in prior administrative reviews, whose first shipment occurred after May 31, 1988, and who is unrelated to any reviewed firm or any other previously reviewed firm, a cash deposit of 6.4 percent shall be required. These deposit requirements are effective for all shipments of Taiwanese fireplace mesh panels entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until the final results of the next administrative review.

The administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Date: February 1, 1989.

**Jan W. Mares,**

*Assistant Secretary, for Import Administration.*

[FR Doc. 89-2990 Filed 2-7-89; 8:45 am]

BILLING CODE 3510-DS-M

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**[C-427-016]**

## Industrial Nitrocellulose From France; Final Results of Countervailing Duty Administrative Review and Revocation of Countervailing Duty Order

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice of final results of countervailing duty administrative review and revocation of countervailing duty order.

**SUMMARY:** On December 2, 1988, the Department of Commerce published the preliminary results of its administrative review and intent to revoke the countervailing duty order on industrial nitrocellulose from France. We have now completed that review and determine the net subsidy during the period January 1, 1986, through March 10, 1988 to be *de minimis*. We are also revoking the countervailing duty order effective March 10, 1988.

**EFFECTIVE DATE:** February 8, 1989.

**FOR FURTHER INFORMATION CONTACT:** Lorenza Olivas or Bernard Carreau, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

### Background

On December 2, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 48668) the preliminary results of its administrative review and intent to revoke the countervailing duty order on industrial nitrocellulose from France (48 FR 28521; June 22, 1983). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

### Scope of Review

Imports covered by this review are shipments of French industrial nitrocellulose containing between 10.8 percent and 12.2 percent nitrogen, not explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Industrial nitrocellulose is a dry, white, amorphous, synthetic chemical produced by the action of nitric acid on cellulose. Industrial nitrocellulose comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing ink. During the period of review, such merchandise was classifiable as cellulosic plastic materials, other than cellulose acetate, under item number 445.2500 of the Tariff Schedules of the United States Annotated.

### Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke. We received no comments.

As a result of our review, we determine the net subsidy to be 0.12 percent *ad valorem* for the period January 1, 1986, through December 31, 1986, 0.09 percent *ad valorem* for the period January 1, 1987, through December 31, 1987, and 0.06 percent *ad valorem* for the period January 1, 1988, through March 10, 1988. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise exported on or after January 1, 1986, and on or before March 10, 1988.

Further, we are revoking the countervailing duty order on industrial nitrocellulose from France effective March 10, 1988. Therefore, the Department will instruct the Customs Service to terminate the suspension of liquidation requirement and to refund any cash deposits of estimated countervailing duties made on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 10, 1988.

This administrative review, revocation, and notice are in accordance with section 751 (a)(1) and (c) of the

Tariff Act (19 U.S.C. 1675 (a)(1)) and (c) and 19 CFR 355.41 and 355.42.

Date: February 1, 1989.

**Jan W. Mares,**

*Assistant Secretary for Import Administration.*

[FR Doc. 89-2991 Filed 2-7-89; 8:45 am]

BILLING CODE 3510-DS-M

## Export Trade Certificate of Review

**ACTION:** Notice of application for an amendment to an Export Trade Certificate of Review

**SUMMARY:** The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the Certificate should be amended.

**FOR FURTHER INFORMATION CONTACT:** Thomas H. Stillman, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1223, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-3A004."

OETCA has received the following application for a third amendment to Export Trade Certificate of Review #87-00004, which was issued on May 19, 1987 (52 FR 19371, May 22, 1987), and previously amended on December 11, 1987 (52 FR 48454, December 22, 1987), and January 3, 1989 (54 FR 837, January 10, 1988).

*Applicant:* National Machine Tool Builders' Association ("NMTBA") a.k.a. NMTBA—The Association for Manufacturing Technology, 7901 Westpark Drive, McLean, Virginia 22102-4269, Contact: James R. Atwood, legal counsel, Telephone: 202/662-6000.

*Application No.:* 87-3A004.

*Date Deemed Submitted:* January 27, 1989.

### Summary of the Application

NMTBA seeks to amend its Certificate to include as a protected Export Trade Activity the operation and establishment of jointly owned subsidiaries or other joint venture entities owned exclusively by Members for the purposes of (a) exporting Products covered by the Certificate to Export Markets; (b) operating warranty, servicing, and training centers in Export Markets; and (c) providing Export Trade Facilitation Services to Members. These entities and the Members that own them would also be protected by the Certificate when the entities engage in the Export Trade Activities and Methods of Operation already authorized by the Certificate.

Date: February 2, 1989.

**Thomas H. Stillman,**

*Director, Office of Export Trading Company Affairs.*

[FR Doc. 89-2974 Filed 2-7-89; 8:45 am]

BILLING CODE 3510-DR-M

## Possible Certain Steel Products Investigations; Meeting

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice of meeting.

**SUMMARY:** This is to advise the public that the International Trade Administration's Import Administration unit will hold a meeting to explore ways to manage investigations where a large number of antidumping (AD) and countervailing duty (CVD) steel petitions may be filed simultaneously. Interested persons are invited to present written and oral views regarding any issue which relates to this matter.

**DATE:** The hearing will be held at 9:30 a.m. on February 24, 1989.

**FOR FURTHER INFORMATION CONTACT:** Roland MacDonald (AD) or Barbara Tillman (CVD), Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; (202) 377-1768 or (202) 377-2438.

**SUPPLEMENTARY INFORMATION:** The International Trade Administration is holding a public meeting to solicit views on various methods that might be employed to manage a large number of simultaneous steel products investigations. The Department is interested in exploring ways in which it can streamline various aspects of such investigations while still conforming fully with the governing statutes. Some of the areas the Department wishes to explore are discussed below. This list, however, is not intended to be exclusive nor indicative of how the Department intends to proceed. The Department welcomes suggestions on any substantive or procedural area that would enable it to conduct a large number of steel investigations in a timely and high-quality manner.

In some instances, we have suggested several alternatives; in others, we have suggested only one or two. Please direct your comments to these suggestions, and to other relevant approaches you believe the Department should consider which are not included in this notice.

*Antidumping Alternatives*

• Petitions

—Supplemental information not to be accepted after filing. All necessary information to be in the petition, as filed.

• Subsequent allegations, *e.g.*, cost of production, multinational companies.

—Limitation on time in which these can be made.

—*All* information necessary to meet respective criteria to initiate (*e.g.*, company specific prices, sale, etc.) to be included.

• Period of investigation (POI).

—Less than a six-month period to be selected from the normal POI, which includes the month of filing plus the five preceding months.

—Less than a six-month period, but selection of the months would come from the most recently audited fiscal year.

• Home market viability determination.

—To be based on total class or kind of merchandise under investigation (as opposed to such or similar categories).

• Third country sales.

—Maximum of two countries to be considered before using constructed value.
—Sales to more than one third country not to be cumulated.
—Volume of sales to equal at least five percent of U.S. sales.

• Sales reporting.

—Limitation on number of categories of merchandise to be analyzed; category selection based on highest sales volume items.
—Identical merchandise only where a minimum coverage threshold (*e.g.*, 33 percent of U.S. sales) is met.
—Non-inclusion of exporter's sales price, purchase price, or further U.S. manufacture sales depending on volume of these sales types involved within comparison categories selected.
—Monthly averaging of U.S. sales prices.
—Selection of specific days within the POI.

• Cost of production (COP)/constructed value (CV) reporting.

—Immediate use of CV where identical or most similar home market/third country comparison category yields no comparison.
—Examination of an abbreviated period to determine whether or not sales have been made at below cost.

• Adjustments for circumstances of sale (CS)/indirect selling expense.

—Use of average amounts for most recently completed fiscal year regardless of POI selected.
—Non-reporting for individual CS categories involving insignificant amounts as determined from past steel cases.

• Difference in merchandise adjustments for similar merchandise comparisons.

—No adjustments where home market comparison categories are narrowly structured.
—Use of average adjustment amounts based on all home market sales within a comparison category.

• Movement charges.

—Use of POI average charges by specific destination for U.S. sales.
—Use of POI average amounts including all destinations for home market sales.

• Rebates and discounts.

—Use of average discount amounts for last audited fiscal year.
—Use of average rebate amounts for sales during POI to extent available.

• Taxes and duties.

—Use of last completed fiscal year data for duty drawback adjustments.

• Administrative protective orders (APO)/non-proprietary summary procedures.

—All petitioner APO requests to be filed within two weeks of initiation.
—APO issuance in advance of the receipt of certain business proprietary data.
—Non-proprietary summaries rejected only if specific complaints are received.

• Verification/verification reports.

—Dates set by Department not to be changed or extended.
—Limited verification on all sales and cost-related data.
—Where appropriate, brief narrative with maximum use of exhibits in verification reports.

• Voluntary responses/exclusion requests.

—No analyses will be undertaken.
—Any deficiencies found will result in rejection.

• ADP.

—ADP portion of questionnaire to be reformatted to conform to streamlining procedures that are adopted.

*Countervailing Duty Alternatives*

• Petition.

—An allegation in support of initiation of an investigation of a government program must contain the elements necessary for the imposition of a duty and must be supported by evidence reasonably available to the petitioner. Specifically:
—The Department will decide whether there is a sufficient basis to initiate an investigation based on information submitted in the petition. No supplemental information will be requested.
—For each program, the petition must state clearly:

(i) How the program constitutes a countervailable export subsidy or domestic subsidy;

(ii) The factual allegations which support the designation of the program as an export or domestic subsidy; and

(iii) All information reasonably available to petitioner in support of such factual allegations.

—If the program is alleged to be a countervailable domestic subsidy, the petition must:

(i) Clearly allege that the benefits under the program are provided to a specific enterprise or industry, or group of enterprises or industries;

(ii) Provide factual information in support of the claim of specificity;

(iii) Describe the nature of the benefit; and

(iv) Demonstrate how the benefit is paid or bestowed, directly or indirectly, on the manufacture, production, or export of steel in accordance with section 771(5)(A)(ii) of the Act.

—If information available to the Department at the time of initiation indicates that the countervailable benefit conveyed under a program is less than .01 percent, the Department will not investigate that program.
—No new allegations accepted after initiation except upstream allegations.
—Equity and uncreditworthy allegations must specify the time period being alleged and then provide the financial information, including full analyses, for the three years prior to this period.
—Allegations and supporting documentation with respect to loans from government banks must demonstrate specificity and inconsistency with commercial considerations.
—Programs previously found not used in steel cases will not be initiated without evidence of use.
—Programs previously found not countervailable will not be initiated without new evidence supporting countervailability.

• Coverage.

—Investigate only those companies which account for 60 percent of exports to the United States.

• Review period.

—Each company's fiscal year will be the basis for its review period, even if other companies under investigation have different fiscal years.

• Verification.

—Certain aspects of all programs will only be verified at either the government or company.
—Only certain programs will be verified at the government.
—Not all companies will be verified and/or not all programs will be verified at a company.

• Exclusions.

—No exclusion requests will be accepted.

• Reporting Requirements.

—Where there are numerous short-term loans, use averaging techniques to calculate the benefit, and/or require information to be submitted in Lotus format on diskettes.
—All loan, grant and equity information must be submitted in Lotus format on diskettes.

• Benchmarks.

—Use published interest rates for short- and long-term loan benchmarks, or a benchmark from a previous

investigation or administrative review.

• Suspension Agreements.

—No requests for suspension agreements will be considered without a clear demonstration that the statutory requirements will be met.

*Combined Antidumping and Countervailing Duty Alternatives*

• Questionnaire formats, response time, and deficiency/omission letters.

—Abbreviated format to conform to simplification measures that are adopted.

—Limited response time with no extensions.

—Only one deficiency/clarification response request will be made.

—Relaxation on number of copies of documents to be filed.

• Hearings

—Dates set by Department will not be changed.

—Limitation on size of briefs and rebuttal briefs.

• Federal register notices.

—Comments and DOC positions for major issues only.

The hearing will be held at 9:30 a.m. on February 24, 1989, in Room 4830 at the Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Persons who with to participate in the hearing must submit a written request (10 copies) to Michael J. Coursey, Deputy Assistant Secretary for Investigations, Room B099, at the above address, within 10 days of the publication of this notice. Requests should contain: (1) The person's name, address, telephone number, and affiliation: (2) the number of participants; (3) the reasons for attending; and (4) a list of the points to be discussed. Written comments must be filed in accordance with 19 CFR 353.46 and 19 CFR 355.31 in at least 10 copies by February 21, 1989 Oral presentations will be limited to those points raised in your written comments. Those persons wishing to appear will be notified of their time allocations for their presentations.

**Jan W. Mares,**

*Assistant Secretary for Import Administration.*

[FR Doc. 89-3109 Filed 2-7-89; 8:45 am]

BILLING CODE 3510-DS-M

## National Technical Information Service

### Intent To Grant Exclusive Patent License; Akzo

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Akzo, having a place of business at Chicago, Illinois, an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent 3,969,549, patent application S. N. 5-536,125, "Method of Deacidifying Paper." The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty days from the date of this published notice, NTIS recieves written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments, and other materials relating to the proposed license must be submitted to Charles A. Bevelacqua, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent may be purchased from the Commissioner of Patents, United States Patent & Trademark Office, Washington, DC 20231.

**Douglas J. Campion,**

*Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.*

[FR Doc. 89-2919 Filed 2-7-89; 8:45 am]

BILLING CODE 3510-04-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Establishment of New Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mauritius

January 26, 1989.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs establishing new limits.

**EFFECTIVE DATE:** February 2, 1989.

**FOR FURTHER INFORMATION CONTACT:** Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

**SUPPLEMENTARY INFORMATION:**

**Authority.** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Mauritius have agreed to amend further their current Bilateral Textile Agreement to establish new limits for Categories 336, 340/640 and 352/652.

A copy of Memorandum of Understanding dated October 26, 1988 is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 37021, published on September 23, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**James H. Babb,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 26, 1989

Commissioner of Customs,
*Department of the Treasury, Washington, D.C. 20229*

Dear Mr. Commissioner: This directive amends but does not cancel, the directive of September 19, 1988 from the Chairman, Committee for the Implementation of Textile Agreements, which establishes restraint limits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Mauritius and exported during the twelve-month period which began on October 1, 1988 and extends through September 30, 1989.

Effective on February 2, 1989 the directive of September 20, 1988 is being amended to include the following new limits for the periods beginning, in the case of Categories 340/640, on October 1, 1988; and in the case of Categories 336 and 352/652, on January 1, 1989; and extending through September 30, 1989:

| Category | New restraint limit [1] |
|---|---|
| 336 | 44,503 dozen. |
| 340/640 | 381,709 dozen of which not more than 235,977 dozen shall be in Categories 340-Y/640-Y.[2] |
| 352/652 | 747,945 dozen of which not more than 635,753 dozen shall be in Category 352. |

[1] The limit for Categories 340/640 has not been adjusted to account for any imports exported after September 30, 1987.

[2] In Categories 340-Y/640-Y, only tariff numbers 6205.20.20.15, 6205.20.20.20, 6205.20.20.46, 6205.20.20.50 and 6205.20.20.60 in Category 340-Y; and 6205.30.20.10, 6205.30.20.20, 6205.30.20.50 and 6205.30.20.60 in Category 640-Y.

Textile products which have been exported to the United States prior January 1, 1989 for Categories 336 and 352/652 shall not be subject to this directive.

Textile products in Categories 336 and 352/652 which have not been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The import charges already made to Categories 340 and 640 are to be retained.

The limits established in this directive may be adjusted in the future under the provisions of the Memorandum of Understanding dated October 26, 1988.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 89-2973 Filed 2-7-89; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

*Name of the Committee:* Army Science Board (ASB).

*Dates of Meeting:* 1-2 March 1989.

*Time of Meeting:* 0800-1700 hours each day.

*Place:* Huntsville, Alabama.

*Agenda:* The Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense (Follow-on) will meet for briefings and discussions on matters that are an integral part of, or related to, the issue of the study effort. The meeting is closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202)695-3039 or 695-7046.

Sally A. Warner,

*Administrative Officer, Army Science Board.*

[FR Doc. 89-2958 Filed 2-7-89; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF EDUCATION

### National Assessment Governing Board; Meeting

**AGENCY:** National Assessment Governing Board, Education.

**ACTION:** Notice of closed meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Search Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a) (2) of the Federal Advisory Committee Act.

**DATE:** February 19 and 20, 1989.

**ADDRESS:** The Ritz Carlton Hotel, 2100 Massachusetts Avenue NW., Washington, DC 20008.

**FOR FURTHER INFORMATION CONTACT:** Eunice E. Henderson, Designated Federal Official, Office of Assistant Secretary for Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue NW., Room 602C, Washington, DC 20208, Telephone: (202) 357-6050.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III-C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297); 20 U.S.C. 1221e-1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Education Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The Search Committee of the National Assessment Governing Board will meet in closed session on February 19 and 20, 1989. The subcommittee is meeting in closed session to interview and consider candidates for the position of Staff Director. The discussion will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemption (6) of section 552(b)(c) of Title 5 U.S.C. The public is being given less than 15 days notice of this meeting because the interview schedule could not be determined until the Board's January 27-28, 1989 meeting.

A summary of the activities at the closed session and related matters which are informative to the public consistent with Title 5 U.S.C. 552b will be available to the public within fourteen days of this meeting.

Records are kept of all Board proceedings, and until a perrmanent office site for the Board has been established, are available for public inspection at the U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 600, Washington, DC from 8:30 a.m. to 5:00 p.m., Monday through Friday.

Dated: February 6, 1989.

Patricia Hines,

*Assistant Secretary for Educational Research and Improvement.*

[FR Doc. 89-3046 Filed 2-7-89; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

[ERA Docket No. 88-66-NG]

### CanadianyOxy Marketing Inc.; Order Extending Blanket Authorization To Import Natural Gas

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of order extending blanket authorization to import natural gas from Canada.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting CanadianOxy Marketing Inc. (CanadianOxy) an extension of its existing blanket authorization to import up to 100 Bcf of

natural gas over a two-year period commencing on the date of first delivery after February 22, 1989.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washignton, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 31, 1989.

**Constance L. Buckley,**

*Acting Director, Office of Fuels Programs, Economic Regulatory Administration.*

[FR Doc. 89–3025 Filed 2–7–89; 8:45 am]

BILLING CODE 6450–01–M

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**[ERA Docket No. 88–67–NG]**

## Kerr-McGee Chemical Corp.; Order Granting Short-Term Authorization To Import Natural Gas From Canada

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of order granting short-term authorization to import natural gas from Canada.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order extending Kerr-McGee Chemical Corporation's (Kerr-McGee Chemical) authority to import natural gas from Canada. The order issued in ERA Docket No. 88–67–NG authorizes Kerr-McGee Chemical to import up to 18,000 Mcf per day of Canadian natural gas over a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on January 31, 1989.

**Constance L. Buckley,**

*Acting Director, Office of Fuels Programs, Economic Regulatory Adminstration.*

[FR Doc. 89–3026 Filed 2–7–89; 8:45 am]

BILLING CODE 6450–01–M

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**[ERA Docket No. 87–60–NG]**

## Northwest Pipeline Corp.; Order Amending a Long-Term Authorization To Import Natural Gas From Canada and Granting Interventions

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of order amending authorization to import natural gas.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order amending an existing import authorization granted to Northwest Pipeline Corporation that increases the volume of gas it is authorized to import at Kingsgate, British Columbia, from 100 MMcf per day to up to 152 MMcf per day for the balance of its existing long-term import authorization ending October 31, 1989.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays.

Issued in Washington, DC, January 31, 1989.

**Constance L. Buckley,**

*Acting Director, Office of Fuels Programs, Economic Regulatory Administration.*

[FR Doc. 89–3027 Filed 2–7–89; 8:45 am]

BILLING CODE 6450–01–M

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## Federal Energy Regulatory Commission

**[Docket No. RP85–122–016]**

## Colorado Interstate Gas Co.; Compliance Filing

February 3, 1989.

Take Note that on January 17, 1989 Colorado Interstate Gas Company ("CIG") submitted the certain tariff sheets in compliance with the July 28, 1988 Letter Order and November 28, 1988 Order Denying Appeal From Staff Action in this proceeding.

CIG states these tariff sheets reflect effective rates for the entire Docket No. RP85–122 period.

CIG states the issue of whether its fixed cost minimum bill should be eliminated retroactively to the effective date of Docket No. RP85–122 rates is pending judicial review in *Natural Gas Pipeline Co.* v. *FERC*, No. 88–1930 (10th Circuit). Accordingly, consistent with *ANR Pipeline Co.* v. *FERC*, Nos. 87–1340 and 88–1030 (DC Cir. December 13, 1988), CIG states that it reserves the right to revise the instant tariff sheets to reflect the elimination of the minimum bill volumes and the resulting reallocation of costs, and to establish an appropriate rate adjustment mechanism in the event that the minimum bill is ultimately ordered to be eliminated retroactively.

Copies of this filiing are being served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89–2993 Filed 2–7–89; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP88–187–014]**

## Columbia Gas Transmission Corp.; Proposed Changes In FERC Gas Tariff

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 30, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective February 1, 1989:

Nineteenth Revised Sheet No. 16B
Ninth Revised Sheet No. 16B1
Ninth Revised Sheet No. 16B2

Columbia states that the foregoing tariff sheets modify and supplement Columbia's previous filings in Docket No. RP88–187 in which Columbia established procedures pursuant to Order No. 500 to recover from its customers the take-or-pay and contract reformation costs billed to Columbia by is pipeline suppliers. Specifically, Columbia proposes to revise and supplement its earlier filings to permit it to flow through take-or-pay and contract reformation costs from (i) Texas Eastern Transmission Corporation pursuant to the Federal Energy Regulatory Commission's orders issued on January

13, 1989 in Docket Nos. RP88–80, RP88–192 and RP88–223, (ii) Panhandle Eastern Pipe Line Company pursuant to filings made on December 19, 1988 in Docket Nos. RP89–9 and RP89–10, and (iii) Tennessee Gas Pipeline Company pursuant to the Commission's orders issued on December 29, 1988 in Docket No. RP88–191.

Additionally, Columbia states its revised tariff sheets reflect changes in the deficiency period sales volumes for certain customers which, in turn, affect the development of allocation factors for the flowthrough of take-or-pay costs to each of Columbia's customers.

Copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions and upon each person designated on the official service list compiled by the Commission's Secretary in Docket No. RP88–187–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89–2994 Filed 2–7–89; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. CP88–587–001]**

## Distrigas Corp. et al.; Tariff Filing

February 2, 1989.

Take notice that on January 17, 1989, Distrigas Corporation (Distrigas) and Distrigas of Massachusetts Corporation (DOMAC), Two Oliver Street, Boston, Massachusetts 02109, filed a Compliance Filing pursuant to the Commission's December 16, 1988 order in the above-captioned Docket.

Distrigas states that in compliance with ordering Paragraph A of that order, Distrigas and DOMAC have filed certain tariff sheets implementing the amended and restructured sales and storage services authorized therein.

Distrigas states that the compliance tariff sheets submitted by Distrigas, for inclusion in Distrigas' FERC Gas Tariff, First Revised Volume No. 1, include the new Distrigas Special Rate Schedule approved by the Commission to govern the Sale of LNG by Distrigas to DOMAC.

The Compliance tariff sheets to be incorporated in DOMAC's FERC Gas Tariff, First Revised Volume No. 1, include:

1. Revised General Terms and Conditions;

2. New DOMAC Rate Schedules FLSS, FVSS, FCSS and ISS, with corresponding Forms of Service Agreements for firm liquid sales service, firm vapor sales service, interruptible liquid service, and interruptible vapor sales service;

3. A new Storage Service contract between DOMAC and Boston Gas Company which implements the new contract storage service to be provided by DOMAD at the contract rate of $0.16/MMBtu per month.

In each instance, Distrigas and DOMAC allege that the submitted tariff sheets conform with the pro forma tariff sheets filed with Distrigas and DOMAC's application in Docket No. CP88–587 and to the Commission's December 16, 1988 Order. DOMAC's General Terms and Conditions have been revised to reflect the terms of the new services authorized by the December 16, 1988 Order and to eliminate anachronistic language that is not meaningful in the context of the new rate schedules and sales services. The General Terms and Conditions have also been revised to reflect amendments to DOMAC's curtailment plan as required by the Commission's December 16, 1988 Order. Additionally, DOMAC has revised the pro forma tariff sheets initially filed to reflect DOMAC's firm and interruptible sales services to reflect the call payment and commodity payments caps instituted by the Commission's December 16, 1988 Order.

Distrigas and DOMAC have requested waiver of the Commission's Regulations to the extent necessary to permit the filed tariff sheets to become effective on December 17, 1988.

Distrigas and DOMAC state that a copy of their filing has been mailed to each party on the official service list at Docket No. CP88–587.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214. All such motions or protests must be filed on or before Feb. 9, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89–2995 Filed 2–7–89; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP89–57–000]**

## El Paso Natural Gas Co.; Tariff Filing

February 3, 1989.

Take notice that on January 27, 1989, El Paso Natural Gas Company ("El Paso") tendered pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, a tariff filing to implement changes in the manner requests are made for transportation on El Paso's interstate pipeline system. Such requests are subject to section 4, Scheduling of Receipts and Deliveries, of the Transportation General Terms and Conditions in El Paso's FERC Gas Tariff, Original Volume No. 1–A, and section 4, Service Agreement and Service Obligations, of the Force Majeure, Service Rules and Service Obligations provisions in El Paso's FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states the new scheduling procedures retain the currently effective three (3) day schedule over which volumes are nominated, confirmed and delivered to El Paso for transportation, but contain beneficial modifications including confirmation and requests to be completed by the conclusion of Day 1, and a provision to schedule on Day 2 additional volumes of gas where additional capacity exists.

El Paso requests the tendered tariff sheets become effective March 1, 1989.

Copies of El Paso's filing were served upon all shippers utilizing El Paso's system and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89-2996 Filed 2-7-89; 8:45 am]

BILLING CODE 6717-010-M

[Docket No. TQ89-2-15-000]

## Mid Louisiana Gas Co.; Proposed Change of Rates

February 3, 1989.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on January 31, 1989, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheets to become effective March 1, 1989:

| | Superseding |
|---|---|
| Sixty-Seventh Revised Sheet No. 3a. | Sixty-Sixth Revised Sheet No. 3a. |

Mid Louisiana states that the purpose of the filing of Sixty-Seventh Revised Sheet No. 3a is to reflect a $.0943 per MCF decrease in its current cost of gas.

Mid Louisiana states this filing is made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89-2997 Filed 2-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-47-017 and RP88-47-018]

## Northwest Pipeline Corp.; Change in FERC Gas Tariff

February 3, 1989.

Take notice that on January 26, 1989 Northwest Pipeline Corporation ("Northwest"), in compliance with the order issued by the Federal Energy Regulatory Commission ("Commission") on January 11, 1989 submitted certain tariff sheets, to be part of its FERC Gas Tariff.

On January 27, 1989, Northwest filed Substitute Fourth Amended Fourteenth Revised Sheet No. 201 after it was discovered that Fourth Amended Fourteenth Revised Sheet No. 201, filed on January 26, 1989, contained mathematical errors.

Northwest states that these tariff sheets reflect the customer-nominated D-2 billing determinants pursuant to the Commission's order on May 18, 1988, in Northwest's pending rate case. The tariff sheets also include the full certificated transportation contract demand level for ANR Pipeline in the derivation of D-1 charges.

A copy of this filing is being served on all parties of record in this proceeding, and on Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89-2998 Filed 2-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-37-001]

## Northwest Pipeline Corp. Change in FERC Sales Tariff

February 3, 1989

Take notice that on January 27, 1988, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

*First Revised Volume No. 1*

Forty-Eighth Revised Sheet No. 10
Sixth Revised Sheet No. 303

*Original Volume No. 1-A*

Fourth Revised Sheet No. 602

Northwest states that the purpose of this filing is to restate its January 1, 1989 PGA to reflect appropriate D-2 nominations as required by the Commission's December 28, 1988 order in Docket No. TQ89-3-37-000. Sheet Nos. 303 and 602 reflect revised statements of D-2 filing determinants and Sheet No. 10 reflects revised rates. Northwest has requested waivers to permit effective dates as follows:

November 1, 1988: Sixth Revised Sheet No. 303, Fourth Revised Sheet No. 602.

January 1, 1989: Forty-Eighth Revised Sheet No. 10.

Northwest states that a copy of this filing has been served on all jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 10, 1989. Protests will be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary,*

[FR Doc. 89-2999 Filed 2-7-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-2-28-000]

## Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

February 3, 1989.

Take notice that on January 30, 1989,

Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following tariff sheets to its FERC Gas Tariff Original Volume No. 1:

Second Substitute Original Revised Sheet No. 3–C.7
Second Substitute Original Revised Sheet No. 3–C.8
Second Substitute Original Revised Sheet No. 3–C.9

The proposed effective date of these revised sheets is September 29, 1988.

Panhandle states that the instant filing reflects revised tariff sheets to flowthrough Trunkline Gas Company's (Trunkline) revised direct billing amount of take-or-pay charges to Panhandle. Trunkline is filing concurrently herewith in compliance with Ordering Paragraph (B) of the Commission's Order dated September 28, 1988, as further clarified in the Commission's Order Denying Rehearing dated December 16, 1988 in Docket No. RP88–239–000 and Docket No. RP88–239–003, respectively, revised tariff sheets to reflect the elimination of carrying charges Trunkline paid its customers on amounts previously collected from them through Trunkline's rates.

Panhandle states that copies of the filing were sent to all of Panhandle's jurisdictional customers and interested state commissions, as well as the parties to the above-captioned proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89–3000 Filed 2–7–89; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. TQ89–2–8–001]**

## South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

February 3, 1989.

Take notice that on January 30, 1989, South Georgia Natural Gas Company ("South Georgia") tendered for filing Substitute Fiftieth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. This tariff sheet and supporting information is being filed with a proposed effective date of January 1, 1989, pursuant to the Purchased Gas Cost Adjustments provision set out in section 14 of South Georgia's FERC Gas Tariff.

South Georgia states that the proposed tariff sheet is submitted in compliance with the Commission's letter order of December 23, 1988, in Docket No. TQ89–2–8–000, as modified by the Notice of Extension of Time issued by the Commission on January 13, 1989. The December 23rd letter order directed South Georgia to file revised PGA rates within fifteen (15) days of the issuance of the order which reflected the effective rates of its pipeline supplier, Southern Natural Gas Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89–3001 Filed 2–7–89; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. G–165–001, *et al.*]**

## Tennessee Gas Pipeline Co. (formerly Tennessee Gas Pipeline Company, a Division of Tenneco Inc.); Redesignation

February 3, 1989.

On February 29, 1988, Tennessee Gas Pipeline Company filed in Docket No. G–165–001, *et al.*, a request for the issuance of a notice redesignating to Tennessee Gas Pipeline Company all certificates of public convenience and necessity, all rate and tariff proceedings, all self-implementing transactions, and any and all other records or proceedings relating to or in the name of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. In accordance with a corporate name change, the jurisdictional natural gas operations are to be conducted under the name of Tennessee Gas Pipeline Company.

Accordingly, the authorization issued by this Commission and by the Federal Power Commission, the applications currently pending before the Commission, the FERC Gas Tariff on file, and any other records or proceedings relating to the former Tennessee Gas Pipeline Company, a Division of Tenneco Inc. are hereby redesignated as those of Tennessee Gas Pipeline Company.

A listing of authorizations and pending proceedings is set forth in the appendix.

This action is taken pursuant to 18 CFR 375.302(r) of the Commission's rules.

**Lois D. Cashell,**

*Secretary.*

**Appendix—Tennessee Gas Pipeline Company**

*List of Pending and Completed Proceedings* [1]

| | |
|---|---|
| G–165 | G–1577 |
| G–230 | G–1582 |
| G–610 | G–1614 |
| G–621 | G–1649 |
| G–652 | G–1661 |
| G–660 | G–1662 |
| G–678 | G–1921 |
| G–701 | G–1922 |
| G–780 | G–1930 |
| G–789 | G–1969 |
| G–805 | G–1969–000 |
| G–808 | G–2025 |
| G–824 | G–2108 |
| G–836 | G–2271 |
| G–850 | G–2290 |
| G–854 | G–2310 |
| G–910 | G–2311 |
| G–911 | G–2316 |
| G–962 | G–2330 |
| G–975 | G–2331 |
| G–978 | G–2352 |
| G–982 | G–2648 |
| G–989 | G–4226 |
| G–1001 | G–4227 |
| G–1073 | G–4262 |
| G–1188 | G–4715 |
| G–1206 | G–4715–004 |
| G–1226 | G–6127 |
| G–1234 | G–8215 |
| G–1235 | G–8661 |
| G–1248 | G–8805 |
| G–1260 | G–8806 |
| G–1267 | G–8872 |
| G–1273 | G–8990 |
| G–1283 | G–9087 |
| G–1284 | G–9175 |
| G–1288 | G–9331 |
| G–1290 | G–9448 |
| G–1301 | G–9454 |
| G–1365 | G–9867 |
| G–1453 | G–10204 |
| G–1572 | G–10610 |
| G–1573 | G–10804 |

[1] Docket number containing an asterisk (*) refers to the FERC changing the name to the extent of its authority granted under the DOE Organization Act and the delegations of the Secretary of Energy thereunder, pursuant to which authority to exercise certain jurisdiction is delegated to the ERA, and authority to exercise other jurisdiction is delegated to the FERC.

G-11107
G-11228
G-11277
G-11980
G-12583
G-12964
G-13146
G-14562
G-15265
G-15475
G-15825
G-15826
G-16555
G-16842
G-16843
G-17013
G-17037
G-17392
G-17409
G-18080
G-18196
G-18877
G-19042
G-19079
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G-19981
G-20388
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CP62-14
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CP62-93
CP62-165
CP62-184
CP62-202
CP62-213
CP62-275
CP62-291

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CP63-85
CP63-86
CP63-111
CP63-112
CP63-146
CP63-173
CP63-177
CP63-181
CP63-194
CP63-203
CP63-236
CP63-247
CP63-328
CP64-2
CP64-4
CP64-92
CP64-130
CP64-141
CP64-165
CP65-218
CP65-28
CP65-29
CP65-33
CP65-35
CP65-49
CP65-58
CP65-65
CP65-93
CP65-120
CP65-130
CP65-157
CP65-158
CP65-177
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CP65-342
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CP66-295
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CP66-303
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CP67-14
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CP67-112
CP67-115
CP67-165
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CP67-325
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CP68-76
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CP68-166
CP68-202
CP68-231
CP68-232
CP68-237
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CP68-276
CP68-281
CP68-324
CP68-330
CP68-333
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CP69-183
CP69-222
CP69-242
CP69-256*
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CP69-297
CP69-329
CP69-335
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CP70-9
CP70-35
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CP70-175
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CP70-185-009
CP70-185-010
CP70-229*
CP70-245
CP70-250

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CP72-203
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CP73-138
CP73-153
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CP73-245
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CP74-180
CP74-204
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CP74-281
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CP77-419
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[FR Doc. 89-2992 Filed 2-7-89; 8:45 am]

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**[Docket No. RP89-59-000]**

## Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

February 3, 1989.

Take notice that Transwestern Pipeline Company (Transwestern) on January 30, 1989 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

53rd Revised Sheet No. 5
Original Sheet No. 5D
Original Sheet No. 5E
33rd Revised Sheet No. 6
3rd Revised Sheet No. 8
3rd Revised Sheet No. 14
2nd Revised Sheet No. 19
2nd Revised Sheet No. 20A
2nd Revised Sheet No. 22
3rd Revised Sheet No. 37
1st Revised Sheet No. 87
1st Revised Sheet No. 88
1st Revised Sheet No. 89
1st Revised Sheet No. 90
Original Sheet No. 90A

Transwestern states these tariff sheets are the second in a series of Order No. 500 filings that Transwestern will make to recover a portion of its take-or-pay buyout and contract reformation costs (Transition Costs). In Docket No. RP88-198-004 and 005, Transwestern requested authority to recover approximately $99.1 million of these transition costs. On December 16, 1988, the Commission accepted such filing to become effective December 1, 1988, subject to certain conditions. With this instant filing, Transwestern requests authority to begin recovery of an additional amount of $45,732,439. This is the amount Transwestern has paid or anticipates to incur by January 31, 1989. Transwestern is continuing its Order No. 300 election to absorb 25% of these costs, direct bill 25%, and recover the remaining 50% by a throughput surcharge. Transwestern requests that the tendered tariff sheets be made effective on January 31, 1989.

Transwestern states that, with these tariff sheets, it proposes tariff revisions. First, Transwestern proposes to recover costs resulting from contracts which are subject to litigation or arbitration by March 31, 1989, or such later date as may be prescribed, but which are not actually paid until after such date. Second, Transwestern proposes to recover eligible take-or-pay costs incurred through March 31, 1989 or such later date that may be prescribed, from all customers including former customers. Third, Transwestern has included language to take into account the extension of the Commission's deadline for Order No. 500 take-or-pay recovery filings. Fourth, Transwestern has clarified the TCR Surcharge in respect to discounting.

Transwestern requests that the Federal Energy Regulatory Commission grant any and all waivers of its rules, regulations and orders as may be necessary, specifically § 154.63 of its Regulations, so as to permit the above listed rate tariff sheets to become effective January 31, 1989.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-3002 Filed 2-7-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP89-40-001]**

## Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 3, 1989.

Take notice that Williams Natural Gas Company (WNG) on January 30, 1989, tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Revised Fifth Revised Sheet No. 2
Revised Original Sheet Nos. 6B-6D
Revised First Revised Sheet No. 109
Revised Original Sheet Nos. 110 and 111

WNG states these tariff sheets are filed in compliance with Commission Order issued December 30, 1988 in Docket No. RP89-40-000 (December 30 Order). WNG was ordered to file revised tariff language within 30 days of the Order to eliminate § 28.3 from its tariff and references in § 28.1 to transportation rate schedules and volumetric commodity surcharges.

WNG states it has received its direct bill from Transwestern Pipeline Co. and changed the amount allocated to its customers to the amount actually billed by Transwestern. This amount which the Commission's December 30 Order permits WNG to flow through from Transwestern is reflected on Revised Original Sheet Nos. 6B, 6C and 6D.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-3003 Filed 2-7-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP89-34-002]**

## Williston Basin Interstate Pipeline Co.; Proposed Changes in FERC Gas Tariffs

February 3, 1989.

Take notice that on January 30, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1-A, Original Volume No. 1-B and Original Volume No. 2 of its FERC Gas Tariff. Williston Basin states that these tariff sheets, with supporting workpapers, are filed under protest in compliance with the Commission's Order of December 30, 1988, in Docket No. RP89-34-000.

Copies of this filing were served on the Company's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such motions or protests should be filed on or before February 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-3004 Filed 2-7-89; 8:45 am]

BILLING CODE 6717-01-M

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## ENVIRONMENTAL PROTECTION AGENCY

**[PF-507; FRL 3515-6]**

## Pesticide Tolerance Petitions

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** This notice announces the filing of a pesticide petition by the Sandoz Crop Protection Corp. proposing the establishment of tolerances and or regulations for the herbicide norflurazon in or on certain raw agricultural commodities and the withdrawal of a petition by the Mobay Chemical Corp. for a herbicide.

**ADDRESS:**

By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Room 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Registration Division (TS-767C), Attention: Product Manager (PM) named in the petition, Environmental Protection Agency, Office of Pesticide Programs.

In person, contact the PM named in each petition at the following office location/telephone number:

| Product manager | Office location/ telephone number | Address |
|---|---|---|
| Richard Mountfort (PM 23). | Rm 237, CM #2, (703)-557-1830. | Do. |
| Robert Taylor (PM 25). | Rm. 245, CM #2, (703)-557-1800. | Do. |

**SUPPLEMENTARY INFORMATION:** EPA has received pesticide petitions (PP) as follows proposing the establishment and withdrawal of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

### Initial Filing

1. *PP 9F3702.* Sandoz Crop Protection Corp., 1300 East Touhy Ave., Des Plaines, IL 60018, proposes amending 40 CFR 180.356(a) by establishing tolerances for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha, trifluoro-*m*-toly1)-3-(2*H*)-pyridazinone) and its desmethyl metabolite 4-chloro-5-(amino)-2-alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2H)-pyridazinone in or on certain raw agricultural commodities as follows: Peanuts, nutmeat at 0.05 part per million (ppm); peanuts, hulls at 1.0 ppm; peanuts, vines (green hay) at 0.075 ppm; and peanuts hay (dry) at 0.5 ppm. (PM23)

### Withdrawal of Petition

1. *PP 3F2873.* Mobay Chemical Corp., P.O. Box 4913, Hawthorne Rd., Kansas City, MO 64120, filed PP 3F2873, notice of which was published in the **Federal Register** of June 8, 1983 (48 FR 26535), proposing to amend 40 CFR 180.332 by increasing to 3.0 ppm the established tolerance for the combined residues of the herbicide 4-amino-6-(1, 1-dimethyl)-3-(methylthio)-1,2,4,-triazin-5(4H)-one and its triazinone methabolites in or on the commodities corn fodder and forage to 3.0 ppm. This notice announces that the petitioner has withdrawn the petition without prejudice. (PM 25)

Authority: 7 U.S.C. 136a.

Dated: November 29, 1988.

**Anne E. Lindsay,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 89-2969 Filed 2-7-89; 8:45 am]

BILLING CODE 6560-50-M

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**[OPTS-42109/OPTS-42104A; FRL-3516-9]**

## Imidazolium and Ethoxylated Quaternary Ammonium Compounds and Nonylphenol; Development of Testing Consent Orders and Solicitation of Interested Parties

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA's procedures for requiring the testing of chemical substances and mixtures under section 4 of the Toxic Substances Control Act

(TSCA) include the adoption of testing consent orders and the promulgation of test rules. Consent orders may be adopted where consensus on an industry test program is reached in a timely manner by EPA, affected manufacturers, processors and other interested parties. If a timely consensus cannot be reached or appears unlikely, and the Agency makes certain statutory findings under TSCA, EPA issues test rules. This notice announces EPA's decision to consider negotiating a consent order for chronic health effects, environmental effects and chemical fate testing of imidazolium (IQAC; CAS No. 68122-86-1) and ethoxylated (EQAC; CAS Nos. 68153-35-5 and 68410-69-5) quaternary ammonium compounds; environmental effects and chemical fate testing of nonylphenol mixed isomers (NP; CAS No. 25154-52-3) and 4-nonylphenol, branched (4-NP: CAS No. 84852-15-3*); 89T-16 and to announce two public meetings to discuss such testing; and requests all persons desiring to have the status of "interested parties" in negotiation of a consent order for IQAC and EQAC, and for NP and 4-NP, to notify EPA of their interest.

**DATES:** A public meeting on IQAC and EQAC will be held on February 17, 1989, at 11 a.m. in NE-103, 401 M St., SW., Washington, DC. Submit written notice of interest to be designated an "interested party" for IQAC and EQAC by February 24, 1989.

A public meeting on nonylphenols will be held on February 13, 1989, at 1 p.m. in NE-103, 401 M St., SW., Washington, DC. Submit written notice of interest to be designated an "interested party" for nonylphenols by February 20, 1989. If your group has already submitted requests for designation following the nonylphenol public meeting (see 52 FR 39273) of October 27, 1987, you do not have to resubmit the request. Your name has been provided as an "interested party" to the appropriate offices.

**ADDRESS:** Submit written request to be an "interested party" in triplicate, identified by the document control number (OPTS-42109 for IQAC/EQAC and OPTS-42104A for NP and 4-NP) to: TSCA Public Docket Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room NE-G004, 410 M Street SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

Persons interested in attending the public meeting should notify EPA by telephone on or before the date of the public meeting.

**SUPPLEMENTARY INFORMATION:** EPA is initiating the consent agreement process because EPA believes this process will lead to the development of necessary test data significantly earlier than through rulemaking. An industry group has approached EPA with a request to review proposals for health and environmental effects and chemical fate testing of IQAC and EQAC. Should the Agency be unable to come to an agreement with interested parties for a testing consent order as a result of this meeting and the following negotiation period, a proposed test rule will be issued for any testing the Agency believes necessary for IQAC and EQAC as required under section 4 of TSCA.

An industry group has approached EPA with a request to review proposals for the environmental effects testing of NP and 4-NP to be conducted later this year. Should the Agency be unable to come to an agreement with interested parties for a testing consent order, a proposed test rule will be issued for any testing the Agency believes necessary for the nonylphenols as required under section 4 of TSCA.

EPA has issued amendments to the procedural regulations in 40 CFR Part 790, which govern the development and implementation of testing requirements under section 4 of TSCA. These amendments establish procedures for using testing consent orders to develop testing requirements under section 4 of the Act. This notice serves three purposes. First, it requires "interested parties" who wish to participate in testing negotiations either for IQAC/EQAC or nonylphenols to identify themselves to EPA. If your group has already submitted requests for designation following the nonylphenol public meeting (see 52 FR 39273) of October 27, 1987, you do not have to resubmit the request. Second, it announces two public meetings to initiate testing negotiations for these chemicals. Third, it proposes target schedules for the development of consent orders.

## I. Identification of Interested Parties

Under 40 CFR 790.22, the testing negotiation procedures are initiated by the publication of a **Federal Register** notice which invites persons interested in participating in or monitoring negotiations for the development of a testing consent order to notify the Agency in writing. Those individuals and groups who respond to EPA's notice by the deadline established in the notice will have the status of "interested parties" and will be afforded opportunities to participate in the negotiations process. These "interested parties" will not incur any obligations by being designated "interested parties." The procedures for these negotiations are described in 40 CFR 790.22. Individuals and groups desiring to have the status of "interested parties" in the development of the consent order should submit a written request to the agency at the address given above on or before February 24, 1989, for IQAC and EQAC, and February 20, 1989, for NP and 4-NP.

## II. Public Meetings

Public meetings are held in Rm. 103 of the Northeast Mall, EPA Headquarters, 401 M Street SW., Washington, DC. On February 17, 1989, at 11 a.m., a public meeting will be held for IQAC and EQAC to discuss the Agency's evaluation of testing needs and any testing proposals from industry. EPA's determination of testing needs for IQAC and EQAC will initiate the testing negotiations period. Persons interested in attending this meeting should notify the EPA TSCA Assistance Office by telephone at the number listed above on or before February 17, 1989.

On February 13, 1989, at 1 p.m., a public meeting will be held to discuss the Agency's evaluation of testing needs for NP and 4-NP and industry's testing proposals, and to initiate testing negotiations. Persons interested in attending this meeting should notify the EPA TSCA Assistance Office by telephone at the number listed above on or before February 20, 1989.

## III. Timetable for Negotiating Test Agreements

Two "target schedules" have been established, in accordance with the procedures for the development of consent agreements in 40 CFR 790.22. There is no statutory deadline for response from EPA to the ITC's recommendations for imidazolium and ethoxylated quaternary ammonium compounds. However, the Agency plans to conduct negotiations in a timely manner. The following target schedule is established for IQAC and EQAC:

February 17, 1989—Public meeting to initiate testing negotiations.

February 24, 1989—Deadline for notice of interested party designations.

March 24, 1989—Decision by EPA on whether to use consent order to test rule.

June 5, 1989—Issuance of consent order to industry for signatures.

A "target schedule" has also been established for NP and 4-NP. There is no statutory deadline for response from EPA to the Testing Priority Committee's nomination for nonylphenols as is required for chemicals designated by the Interagency Testing Committee under TSCA section 4(e). However, the Agency plans to conduct negotiations in a timely manner. The following target schedule is established for NP and 4-NP:

February 13, 1989—Public meeting to initiate testing negotiations.

February 20, 1989—Deadline for notice of interested party designations.

March 27, 1989—Decision by EPA on whether to use consent order or test rule.

July 25, 1989—Issuance of consent order to industry for signatures.

Authority: 15 U.S.C. 2603.

Dated February 6, 1989.

**Joseph J. Merenda,**

*Director, Existing Chemical Assessment Division, Office of Toxic Substances.*

[FR Doc. 89-3065 Filed 2-7-89; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Type:* Extension of information collection.

*Title:* Right to Submit Technical or Scientific Data to Correct Mapping Deficiencies Unrelated to Community-wide Elevation Determinations.

*Abstract:* Any owner or leasee of property in the 19,075 communities with mapped special flood hazard areas (SFHA) who believe his or her property has been incorrectly included on a SFHA has the right to submit technical or scientific data that shows the map to be deficient.

*Type of Respondents:* Individuals or households.

*Estimate of Total Annual Reporting and Recordkeeping Burden:* 59,880.

*Number of Respondents:* 2495.

*Estimated Average Burden Hours Per Response:* 24.

*Frequency of Response:* On occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: February 1, 1989.

**Wesley C. Moore,**

*Director, Office of Administrative Support.*

[FR Doc. 89-2949 Filed 2-7-89; 8:45 am]

BILLING CODE 6718-01-M

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which the notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 202-007680-072.

*Title:* American West African Freight Conference.

*Parties:* America-Africa Europe Line GMBH; Barber West Africa Line; Farrell Lines, Inc.; Maersk Line; Societe Iviorienne De Transport Maritime, SITRAM; Torm West Africa Line; Westwind Africa Line.

*Synopsis:* The proposed modification would add Nigerian National Shipping Line as a party to the Agreement. It would also prohibit member lines from entering into loyalty contracts or exercising independent action on any loyalty contract offered by the Conference. It further deletes any reference to loyalty contracts.

*Agreement No.:* 202-010270-031.

*Title:* Gulf-European Freight Association.

*Parties:* Compagnie Generale Maritime (CGM); Lykes Bros. Steamship Co., Inc.; Gulf Container Line (GCL), B.V.; Hapag-Lloyd AG; Sea-Land Service, Inc.; P&O Container (TFL) Limited; Nedlloyd Lijnen, B.V.

*Synopsis:* The proposed modification would clarify and conform the Agreement to the Commission's requirements concerning Docket No. 88-7, Service Contract; "Most Favored Shipper." The parties have requested a shortened review period.

*Agreement No.:* 202-010636-054.

*Title:* U.S. Atlantic-North Europe Conference Agreement.

*Parties:* Atlantic Container Line, B.V.; Orient Overseas Container Line (UK) Ltd.; Hapag-Lloyd AG; Sea-land Service, Inc.; A.P. Moller-Maersk Line; Gulf Container Line (GCL) B.V.; P&O Container (TFL) Limited; Compagnie Generale Maritime (CGM); Nedlloyd Lijnen, B.V.

*Synopsis:* The proposed modification would clarify and conform the Agreement to the Commission's requirements concerning Docket No. 88-7, Service Contract; "Most Favored Shipper." The parties have requested a shortened review period.

*Agreement No.:* 202-010637-037.

*Title:* North Europe-U.S. Atlantic Conference.

*Parties:* Atlantic Container Line, B.V.; Hapag-Lloyd AG; Sea-Land Service, Inc.; Nedlloyd Lijnen, B.V.; Gulf Container Line (GCL) B.V.; P&O Containers (TFL) Limited; Compagnie Generale Maritime (CGM).

*Synopsis:* The proposed modification would clarify and conform the Agreement to the Commission's requirements concerning Docket No. 88-7, Service Contract; "Most Favored Shipper." The parties have requested a shortened review period.

*Agreement No.:* 202-010656-032.

*Title:* North Europe-U.S. Gulf Freight Association.

*Parties:* Compagnie Generale Maritime (CGM); Lykes Bros. Steamship Company, Inc.; Gulf Container Line (GCL) B.V.; Sea-Land Service, Inc.; Hapag-Lloyd AG; P&O Containers (TFL) Limited; Nedlloyd Lijnen, B.V.

*Synopsis:* The proposed modification would clarify and conform the Agreement to the Commission's requirements concerning Docket No. 88-7, Service Contract; "Most Favored Shipper." The parties have requested a shortened review period.

*Agreement No.:* 202-010689-035.

*Title:* Transpacific Westbound Rate Agreement.

*Parties:* American President Lines, Ltd.; Hanjin Container Lines, Ltd.; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; A.P.

Moller-Maersk Line; Mitsui O.S.K. Lines, Ltd.; Neptune Orient Lines, Ltd.; Nippon Yusen Kaisha, Ltd.; Sea-Land Service, Inc.; Orient Overseas Container Line, Inc.

*Synopsis:* The proposed modification would restore the Agreement's right to enter into agreement service contracts with shippers and consignees and would also authorize adoption of internal standards and procedures governing negotiation and adoption of such contracts.

*Agreement No.:* 202–010714–009.

*Title:* Trans-Atlantic American Flag Liner Operators Agreement.

*Parties:* Farrell Lines Incorporated, Sea-Land Service, Inc., Lykes Bros. Steamship Co., Inc.

*Synopsis:* The proposed modification reduces the minimum notice period for resignation from the Agreement from 180 days to 75 days. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.
Dated: February 3, 1989.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 89–3022 Filed 2–7–89; 8:45 am]

BILLING CODE 6730–01–M

## Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 224–200217.

*Title:* Port Authority of New York & New Jersey Terminal Agreement.

*Parties:* Port Authority of New York & New Jersey (Port) OCCL–USA Inc. (Carrier).

*Synopsis:* The Agreement provides that the Port will pay Carrier twenty-five dollars ($25.00) per loaded import container and fifty dollars ($50.00) per loaded export container loaded or unloaded from Carrier's vessels at a marine terminal in the Port of New York/New Jersey. Each container must have been shipped by rail to or from points more than 260 miles from the Port.

By Order of the Federal Maritime Commission.

Dated: February 3, 1989.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 89–3021 Filed 2–7–89; 8:45 am]

BILLING CODE 6730–01–M

## Ocean Freight Forwarder License; Revocations; Alberto Scott & Co., Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

*License Number:* 636
*Name:* Alberto Scott & Co., Inc.
*Address:* 465 California St., #525, San Francisco, CA 94104
*Date Revoked:* December 23, 1988
*Reason:* Failed to maintain a valid surety bond

*License Number:* 3033
*Name:* MSS Enterprise International, Inc.
*Address:* 3014 Mecom, P.O. Box 60165 AMF, Houston, TX 77205
*Date Revoked:* December 28, 1988
*Reason:* Failed to maintain a valid surety bond

*License Number:* 1291
*Name:* Robert J. Semany & Co., dba Altransco
*Address:* 10501 Allen Rd., #206, Allen Park, MI 48101
*Date Revoked:* January 1, 1989
*Reason:* Failed to maintain a valid surety bond

*License Number:* 1327
*Name:* ALFA Aerofreight Service, Inc.
*Address:* 8010 N.W. 66th St., Miami, FL 33166
*Date Revoked:* January 1, 1989
*Reason:* Failed to maintain a valid surety bond

*License Number:* 3154
*Name:* Nydia B. Cardenas
*Address:* 4905 Park Ave., Apt. 4C, Union City, NJ 07087
*Date Revoked:* January 4, 1989
*Reason:* Failed to maintain a valid surety bond

*License Number:* 632
*Name:* McClary, Swift & Company, Inc.
*Address:* 625 First Ave., Seattle, WA 98104
*Date Revoked:* January 6, 1989
*Reason:* Failed to maintain a valid surety bond

*License Number:* 1380
*Name:* E. Dillingham, Inc.
*Address:* 128 Dearborn St., Buffalo, NY 14207
*Date Revoked:* January 11, 1989
*Reason:* Surrendered license voluntarily

*License Number:* 2750
*Name:* Josh Brown Enterprises, Inc., dba Ocean Transport International
*Address:* 220 W. Ivy St., Inglewood, CA 90302
*Date Revoked:* January 12, 1989
*Reason:* Failed to maintain a valid surety bond

*License Number:* 976
*Name:* ABC International, Inc.
*Address:* One World Trade Center, #1729, New York, NY 10048
*Date Revoked:* January 17, 1989
*Reason:* Surrendered license voluntarily

*License Number:* 2746
*Name:* Amity International Forwarding Inc.
*Address:* Cargo Bldg. 150, Newark International Airport, Newark, NJ 07114
*Date Revoked:* January 18, 1989
*Reason:* Failed to maintain a valid surety bond

*License Number:* 3126
*Name:* Trans Continental Cargo, Inc., dba Freight Forwarding Service
*Address:* 7369 N.W. 54th St., Miami, FL 33166
*Date Revoked:* January 26, 1989
*Reason:* Failed to maintain a valid surety bond

*License Number:* 1593
*Name:* Robertson Forwarding Co., Inc.
*Address:* 147–05 176th St., Jamaica, NY 11434
*Date Revoked:* January 26, 1989
*Reason:* Failed to maintain a valid surety bond

*License Number:* 1298
*Name:* Haniel Transport Inc.
*Address:* 105 Washington St., New York, NY 10006
*Date Revoked:* January 27, 1989
*Reason:* Surrendered license voluntarily

**Robert G. Drew,**

*Director, Bureau of Domestic Regulation.*

[FR Doc. 89–2931 Filed 2–7–89; 8:45 am]

BILLING CODE 6730–01–M

## Ocean Freight Forwarder License; Reissuance of License; Fast Shipping Co.

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to

section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

| License No. | Name/Address | Date Reissued |
|---|---|---|
| 1227 | Fast Shipping Co., P.O. Box 523363, 7370 N.W. 36th Street, Miami, FL 33152. | Jan. 17, 1989. |

**Robert G. Drew,**

*Director, Bureau of Domestic Regulation.*

[FR Doc. 89-2932 Filed 2-7-89; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Agency Forms Under Review

February 2, 1989.

### Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulation on Controlling Paperwork Burdens on the Public).

**FOR FURTHER INFORMATION CONTACT:**

Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340)

*Final approval under OMB delegated authority of the extension, without revision, of the following report:*

*Report Title:* Report of Commercial Paper Outstanding Placed by Brokers and Dealers; Report of Commercial Paper Outstanding Placed Directly by Issuers; and Daily Report of Offering Rates on Commercial Paper.

*Agency Form Number:* FR 2957a, b, and d.

*OMB Docket Number:* 7100-0002.

*Frequency:* Daily, weekly, and monthly.

*Reporters:* Securities Brokers and Dealers and Direct Issuers of Commercial Paper.

*Annual Reporting Hours:* 1796.

*Estimated Number of Respondents:* 67.

*Estimated Average Hours per Response:* .2 to .7.

Small businesses are not affected.

*General Description of Report:*

This information collection is voluntary (12 U.S.C. 225a and 353 *et seq.*) and is given confidential treatment (5 U.S.C. 552(b)(4)).

These reports provide information on the amount outstanding and selected offering rates on commercial paper, which is used by the Federal Reserve in monitoring developments in the commercial paper market for supervisory, regulatory, and monetary policy purposes.

Board of Governors of the Federal Reserve System, February 2, 1989.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 89-2924 Filed 2-7-89; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Service's claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 15% for the quarter ended December 31, 1988. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Date: February 2, 1989.

**Dennis J. Fischer,**

*Deputy Assistant Secretary, Finance.*

[FR Doc. 89-2950 Filed 2-7-89; 8:45 am]

BILLING CODE 4150-04-M

### Centers for Disease Control

### National Institute for Occupational Safety and Health; Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC):

*Name:* Methods for Detecting Evidence of Mutation During Spermatogenesis.

*Date:* February 17, 1989.

*Place:* Division of Biomedical and Behavioral Science, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

*Time:* 8:00 a.m.-5:00 p.m.

*Status:* Open to the public, limited only by space available.

*Purpose:* The purpose of this meeting will be to review the new NIOSH intramural project to develop methods for assessing the sample to determine if germ cell mutations have occurred.

Additional information may be obtained from: Dr. Steven M. Schrader, Division of Biomedical and Behavioral Science, NIOSH, Mail Stop C23, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: Commercial: (513) 533-8210, FTS: 684-8210.

Dated: February 3, 1989.

**Elvin Hilyer,**

*Associate Director for Policy Coordination, Centers for Disease Control.*

[FR Doc. 89-3054 Filed 2-7-89; 8:45 am]

BILLING CODE 4160-17-M

### Food and Drug Administration

### Advisory Committees; Filing of Annual Reports

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings.

**ADDRESS:** Copies are available for public examination at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1751.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers

Lane, Rockville, MD 20857, 301–443–2765.

**SUPPLEMENTARY INFORMATION:** Under section 13 of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I, as amended)) and 21 CFR 14.60(c), FDA has filed with the Library of Congress the annual reports for the following FDS advisory committees that held closed meetings during the period October 1, 1987, through September 30, 1988:

Center for Biologics Evaluation and Research: Allergenic Products Advisory Committee, Blood Products Advisory Committee,Vaccines and Related Biological Products Advisory Committee.

Center for Drug Evaluation and Research: Anesthetic and Life Support Drugs Advisory Committee, Anti-Infective Drugs Advisory Committee, Dermatologic Drugs Advisory Committee.

Center for Devices and Radiological Health: Gastroenterology-Urology Devices Panel, Immunology Devices Panel, Ophthalmic Devices Panel.

Center for Veterinary Medicine: Veterinary Medicine Advisory Committee.

National Center for Toxicological Research: Science Advisory Board.

Annual reports are available for public inspection at: (1) The Library of Congress, Newspaper and Current Periodical Reading Room, Rm. 1026, Thomas Jefferson Bldg., Second and Independence Ave. SE., Washington, DC; (2) the Department of Health and Human Services Library, Rm. G–400, 330 Independence Ave. SW., Washington, DC, on weekdays between 9 a.m. and 4:30 p.m.; and (3) the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 1989.

**John M. Taylor,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 89–2928 Filed 2–7–89; 8:45 am]

BILLING CODE 4160–01–M

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**[Docket No. 87D–0315]**

## Oligosaccharide Antibotic Drugs; Neomycin Sulfate for Prescription Compounding; Amendment of Withdrawal of Approval of Abbreviated Antibiotic Drug Applications

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is amending a previous notice withdrawing approval of abbreviated antibiotic drug applications (AADA's) for neomycin sulfate for prescription compounding. This amendment rescinds the notice of withdrawal with respect to AADA 62–385, held by Paddock Laboratories, Inc. AADA 62–385 was incorrectly listed in the withdrawal notice.

**EFFECTIVE DATE:** February 8, 1989.

**FOR FURTHER INFORMATION CONTACT:** Margaret F. Sharkey, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8041.

**SUPPLEMENTARY INFORMATION:** In a notice publisehd in the **Federal Register** on December 6, 1988 (53 FR 49231), FDA withdrew approval of AADA's for neomycin sulfate for prescription compounding that were not supplemented to provide for revised labeling recommending use only for oral compounding, and for which their sponsors did not request a hearing on the matter. That notice incorrectly included AADA 62–385, held by Paddock Laboratories, Inc., 3101 Louisiana Ave. North, Minneapolis, MN 55421. Paddock Laboratories submitted a supplement to AADA 62–385 to provide for revised labeling on May 12, 1988, and FDA approved the supplemental application on August 2, 1988. Accordingly, the Director of the Center for Drug Evaluation and Research hereby rescinds the December 6, 1988, notice of withdrawal with respect to AADA 62–385.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1052–1053 as amended (21 U.S.C. 355(e))) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82).

Dated: January 25, 1989.

**Carl C. Peck,**

*Director, Center for Drug Evaluation and Research.*

[FR Doc. 89–2929 Filed 2–7–89; 8:45 am]

BILLING CODE 4160–01–M

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Ft. Belknap Irrigation Project, MT

**AGENCY:** Bureau of Indian Affairs Interior.

**ACTION:** Public notice.

*Purpose:* Fort Belknap Irrigation Project Annual Operation and Maintenance Charges.

**SUMMARY:** The annual operation and maintenance charges for the *Non - Indian* operator will be $12.50 per assessable acre and for the *Indian* operator $6.25 per assessable acre. The projects annual operation and maintenance charges are based on the estimated normal operating cost of the project for one Fiscal Year. These operation and maintenance charges will remain in effect until the Billings Area Director has replaced these rates with another announcement in the **Federal Register.**

The Bureau of Indian Affairs has identified the Fort Belknap Irrigation Project as a Category II project. As a Category II project, the Bureau of Indian Affairs will partially subsidize the operation and maintenance of the project.

The due date for all operation and maintenance charges will be May 1 of each calendar year.

Interest and/or penalty fees will be assessed on all (Trust, and Fee assessed lands) delinquent operation and maintenance charges as prescribed in the 42 Bureau of Indian Affairs Manual and the Code of Federal Regulations, Chapter 4, Part 102. Government agencies, such as Federal, State and Tribal Governments are exempted from interest and/or penalty fees.

This notice will be published and posted at the following locations:

*U.S Post Offices*

Harlem, MT 59526

*Newspaper*

Harlem News
Harlem, MT 59526

*Bureau of Indian Affairs*

Fort Belknap Agency
Harlem, MT 59526

*Comments:* All comments concerning the operating and maintenance charges for the Fort Belknap irrigation project must be in writing and addressed to the Superintendent of the Fort Belknap Agency before the close of business on February 10, 1989.

*Appeal Process:* Title 25, Part 2 of the Code of Federal Regulations outlines the appeal process for this administrative action. Appeals must be received by the Billings Area Director before the close of business in February 10, 1989.

**SUPPLEMENTARY INFORMATION:** This notice is issued pursuant to the Code of Federal Regulations, Title 25, Part 171 under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the

Interior (Department Manual, Chapter 3, Part 230, (3.1 & 3.2)).

Norris M. Cole,

*Acting Billings Area Director.*

[FR Doc. 89-2920 Filed 2-7-89; 8:45 am]

BILLING CODE 4310-02-M

## Bureau of Land Management

**[WAOR 39978; OR-130-09-4212-14: GP9-112]**

### Realty Action; Noncompetitive Sale of Public Lands in Ferry County, WA

**AGENCY:** Bureau of Land Management, Interior.

**SUMMARY:** The following described land has been found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the appraised fair market value of $125. The land will not be offered for sale before 60 days after the date of this notice.

Willamette Meridian,

T. 36 N., R. 32 E.,
Sec. 1, Lot 11.

Containing approximately 0.75 acre.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale to Richard Williams. It has been determined that the subject parcel contains no known minerals of more than nominal value; therefore, mineral interests may be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of the mineral estate.

The patent will contain certain reservation to the United States and will be subject to valid existing rights. Detailed information concerning these reservations and specific conditions of the sale are available for review at the Spokane District Office, Bureau of Land Management, E. 4217 Main Ave. Spokane, WA 99202.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Spokane District, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Date of Issue: January 30, 1989.

Joseph K. Buesing,

*District Manager.*

[FR Doc. 89-2921 Filed 2-7-89; 8:45 am]

BILLING CODE 4310-33-M

## Bureau of Reclamation

### Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information reproduced below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval has been requested by February 17, 1989. Comments and suggestions on the proposal should be made directly to the Bureau clearance officer listed below and to the Office of Management and Budget Interior Desk Officer, Washington, DC 20503.

*Title:* Reclamation States Drought Assistance Act of 1988.

*Abstract:* Information is being collected to: (1) Assist willling sellers and buyers in the redistribution of water supplies to minimize losses and damages resulting from the drought, and will be used to facilitate such exchanges, (2) to identify the potential users, uses of the Federal water or facilities, and financial feasibility of the applicants, and will be used to develop individual temporary contracts, (3) to identify the potential borrowers, uses of the loan, and relevant financial data, and will be used to develop individual loan repayment contracts, and (4) to identify the potential resources to be protected or mitigated, and the need for the water, and will be used to evaluate the potential to prevent or mitigate damages to fish and wildlife resources caused by the drought.

*Additonal Information:* The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* Expedited review has been requested in order to provide the emergency relief authorized in time to assist victims of the 1988 drought.

*Frequency:* On occasion.

*Description of Respondents:* Irrigation districts, cities, and other water user institutions impacted by the drought in the 17 Reclamation States.

*Estimated Completion Times:* 3 hours.

*Annual Responses:* 200.

*Annual Burden Hours:* 600.

*Bureau Clearance Officer:* Ms. Carolyn G. Hipps, Chief, Branch of Publications and Records Management, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado, 80225; 303-236-6769.

Information collection can be found in § 423.5, 423.6, 423.7, and 423.8 of the following rules.

Dated: November 18, 1988.

C. Dale Duvall,

*Commissioner, Bureau of Reclamation.*

*Section 423.5 Transfers of water between willing buyers and willing sellers.*

(a) The Secretary is authorized, under section 412(2) of the Act, to assist willing sellers and willing buyers in the redistribution of water supplies to minimize losses and damages resulting from the drought. To facilitate such a water exchange program, Reclamation Regional Directors will compile and maintain a list of buyers and sellers.

(b) Interested buyers and sellers are encouraged to submit the following information to the appropriate Regional Director, as presented in § 423.6(b)(1).

(1) Sellers:

(a) The amount of water available for sale, proposed sale price, timing of its availability, and source of supply.

(b) Legal information relating to seller's right to the water, and the normal purpose or use of the supply.

(2) Buyers:

(a) Amount and timing of water requested.

(b) Proposed purchase price.

(c) Expected use of the water supply.

(d) Location of use.

(c) Each Regional Director will review the proposals submitted by the willing sellers and buyers to match potential exchanges. Where available supplies equal or exceed requests from buyers and no other apparent conflicts exist, buyers and sellers will be brought together to negotiate an exchange agreement, consistent with state law.

(d) If requests from buyers exceed the water available from willing sellers, priorities will be established. In those instances where State law establishes priorities, such priorities will be followed in allocating the water. Where state law is silent in setting priorities, the Regional Director will consult with State and local water resources agencies to establish allocation priorities.

*Section 423.6 Availability of water and the use of project conveyance facilities on a temporary basis.*

(a) Under general authority pursuant to the Act, the Secretary may contract to make water or conveyance capacity

available, on a temporary basis, to mitigate losses and damages from the drought, provided such contracts are consistent with existing contracts, state law, and Interstate compacts governing the use of such water.

(b) Application Process. The procedure for application for water or conveyance capacity pursuant to section 413 of the Act is as follows:

(1) The contracting entity shall submit an application to the appropriate Regional Director of the Bureau of Reclamation (address shown below).

Regional Director, Pacific Northwest Region, Bureau of Reclamation, Federal Building, U.S. Court House, Box 043, 550 West Fort Street, Boise ID 83724.

Regional Director, Mid-Pacific Region Bureau of Reclamation, Federal Office Bulding, 2800 Cottage Way, Sacramento CA 95825.

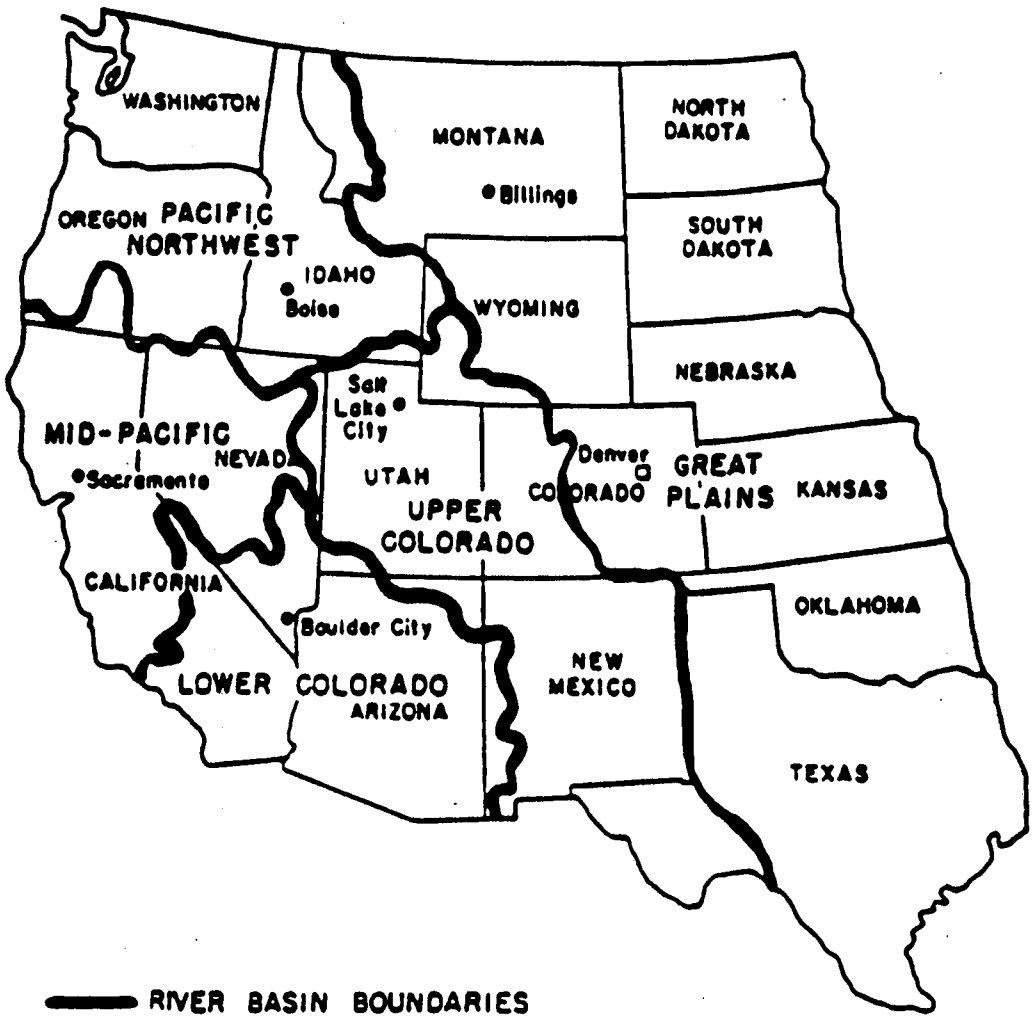
Regional Director, Upper Colorado Region, Bureau of Reclamation, PO Box 11568, Salt Lake City UT 84147.

Regional Director, Great Plains Region, Bureau of Reclamation, PO Box 36900, Billings MT 59107–6900.

Regional Director, Lower Colorado Region, Bureau of Reclamation, PO Box 427. Boulder City, NV 89005.

(Map on following page)

BILLING CODE 4310-09-M




*Regional boundaries for the new Bureau of Reclamation*

BILLING CODE 4310-09-C

(2) The application for a water supply or conveyance capacity will be reviewed on a first-come-first-served basis and approval will be based on need as determined and in accordance with priorities established by the Secretary. The application shall include the following information:

(i) Identification of contracting entity with name, address, telephone number, and title of the appropriate officials.

(ii) Identification of water conservation plans, quantities of water involved, perennial crops or crops for foundation livestock uses, and other relevant data on water uses and expected results.

(iii) Relevant financial data, records, or statements, which demonstrate or support that payment for the water or conveyance capacity is financially feasible.

(c) Contracts. Contracts for the temporary use of water and conveyance capacity pursuant to this Act shall be consistent with subsections 9(c)(2) or 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187) unless the Act authorizes provisions different from those in subsections 9(c)(2) or 9(e). Any contract executed under this paragraph shall provide that:

(1) Water supply or conveyance contracts executed pursuant to this act shall terminate no later than December 31, 1989.

(2) Land currently irrigated by nonproject water supplies may receive supplies made available pursuant to this Act.

(3) Lands not now subject to reclamation law that receive temporary water supplies pursuant to this Act shall not become subject to the ownership limitations of Federal reclamation law because of such temporary water supplies.

(4) Lands that are subject to the ownership limitations of Reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies.

(5) The price for the use of such water shall be at least sufficient to recover all Federal operation and maintenance costs, and a proportionate share of capital costs. In addition, the price of water used shall be full cost in the following cases:

(i) Where water is delivered to a landholding of 960 acres of class I lands or the equivalent belonging to a qualified recipient (as defined by 43 U.S.C. 390 bb), the water shall be full cost for those acres in excess of 960.

(ii) Where water is delivered to a landholding of 320 acres of class I lands or the equivalent belonging to a limited recipient (as defined by 43 U.S.C. 390 bb), the water shall be full cost for those acres in excess of 320.

(6) Contracting entities shall be responsible for identifying all individuals who will use agricultural water obtained pursuant to section 413 of the Act and the extent of their respective landholdings for the purpose of determining the rate to be charged for such water.

(7) The Secretary shall include such other terms and conditions as deemed appropriate.

*Section 423.7 Emergency loan program.*

*(a) Purpose.* Any contracting entity located in a designated drought area may be eligible to obtain loans for the purposes of improving water management, instituting water conservation activities, and acquiring and transporting water. Loans may also be obtained to finance drought-induced increases in pumping costs.

*(b) Application Process.* The procedure for application for drought assistance loans is as follows: The applicant shall submit an application to the appropriate Regional Director of the Bureau of Reclamation, as presented in § 423.6(b)(1). The application for a loan shall include appropriate information as follows:

(1) Identification of contracting entity with name, address, telephone number, and title of the appropriate official.

(2) A description of the expected use of the loan funds, including, if applicable, water conservation plans, quantities of water involved, perennial crops or crops for foundation livestock uses that have been affected by the drought, water purchase and sales price criteria, and other relevant data on water uses and expected results.

(3) Relevant financial data, records, or statements, which demonstrate or support the need for financial assistance and demonstrate that repayment of the loan is financially feasible.

(4) A statement or resolution setting forth a commitment to repay the loan covered by the application.

(5) Evidence of compliance with applicable state water and entitlement laws.

(6) Other drought related financial assistance that may have been applied for or received.

*(c) Loans.* (1) Federal financial assistance for the purposes defined in § 423.7(a) will be handled through loans with the contracting entity which must be repaid over a period of not less than 5 years, but no more than 10 years beginning not later than the first year following the next year of adequate water supply, as determined by the Secretary. Loans for non-agricultural purposes shall be repaid with interest at the rate determined pursuant to the Water Supply Act of 1958. Loans for agricultural purposes shall be interest free.

(2) Contracts for repayment of any loan will be developed separately from any existing repayment or water service contract between the United States and a contracting entity. The contract will include the terms and conditions for repayment specified above and will be approved by the appropriate Regional Director in behalf of the Secretary following review and certification of the contract's legal sufficiency by the Solicitor. Section 203(a) of the Reclamation Reform Act of 1982 (Pub. L. 97-293; 43 U.S.C. 390CC) shall not apply to any contract for such a loan.

(3) Activities undertaken by contracting entities pursuant to these rules shall be completed not later than December 31, 1989.

(4) Terms and Conditions for Disbursement of Funds.

(i) Emergency loan requests will be reviewed on a first-come-first-served basis and disbursement will be made based on need as determined by the Secretary.

(ii) The contracting entity must be deemed eligible by the United States.

(iii) The Secretary may disburse up to fifty percent of the estimated loan amount prior to execution of a repayment contract, provided that the contracting entity, by appropriate resolution, agrees to enter into a repayment contract covering reimbursement of the loan program funds in accordance with the terms and conditions set forth in these rules.

(iv) Interest, where applicable, shall accrue beginning with the first disbursement of funds.

(v) Except as provided herein, standard Reclamation contract terms and conditions will apply.

*Section 423.8 Fish and wildlife mitigation.*

(a) The Secretary may make water from a Reclamation project, purchased or otherwise acquired, available to prevent or mitigate damage to fish and wildlife resources caused by the drought in areas designated eligible pursuant to § 423.2 of these rules.

(b) The application for water pursuant to this section shall include appropriate information as follows:

(1) Identification of the appropriate State, Federal, local or private entity representing the fish and wildlife resources, including name, address, telephone number, and title of the contact official.

(2) Identification of the resource to be protected or mitigated, the magnitude of such protection or mitigation, the level and extent of coordination with State and local officials, the source of the water proposed to be used, quantities of water involved, justification of the

reasonableness of the proposed action, and any other relevant information deemed necessary by Reclamation to make a decision concerning the proposed action.

(c) The applicant shall notify Reclamation of the water needs of fish and wildlife in areas capable of service from Reclamation facilities. The need for water must be attributable to the drought.

(d) When Reclamation incurs cost or foregoes revenues in excess of the funds available pursuant to the Act in order to provide water for fish and wildlife protection or mitigation, the applicant will be responsible for identifying the source of necessary funding to implement section 413(c) of the Act.

[FR Doc. 89-2983 Filed 2-7-89; 8:45 am]

BILLING CODE 4310-09-M

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[INT DES 88-60]

## American River Service Area Water Contracting Program, California

**AGENCY:** Bureau of Reclamation (USBR), Interior.

**ACTION:** Extension of review period and change of public hearing dates on draft environmental impact statement.

**SUMMARY:** A Notice of Availability of the Draft Environmental Impact Statement (DEIS) and Notice of Public Hearings for water contracting in the Sacramento River Service Area was published in the **Federal Register**, Vol. 54, No. 2, pages 195-196, on January 4, 1989. Because of problems in circulating the DEIS, the deadline for comments has been extended and the four announced public hearings have been rescheduled.

**DATES:** The comment period on the DEIS has been extended to April 3, 1989.

**ADDRESSES:** The four public hearings have been rescheduled for 7 p.m. at the following locations:

Tuesday, March 14, 1989, Blue Gum Restaurant, Highway 99W, Willows, CA 95988.

Thursday, March 16, 1989, Holiday Inn/ Holidome, Sonora Room, 5321 Date Avenue, Sacramento, CA 95841.

Tuesday, March 21, 1989, Center Plaza Holiday Inn, Conference Center, Salons D1 and D2, 2233 Ventura, Fresno, CA 93721.

Thursday, March 23, 1989, Concord Hilton, Baldwin & Chabot Rooms, 1970 Diamond Blvd., Concord, CA 94520.

**FOR FURTHER INFORMATION CONTACT:** Mr Bill Payne or Mr. William Tully (Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA 95825), (916) 978-5130; or Dr. Wayne Deason (Manager, Environmental Services, Denver, CO), (303) 326-9336.

**SUPPLEMENTARY INFORMATION:** Comments on the DEIS may be submitted at any of the public hearings or submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento, CA 95825-1898.

Date: February 2, 1989.

**Darrell W. Webber,**

*Acting Deputy Commissioner.*

[FR Doc. 89-2944 Filed 2-7-89; 8:45 am]

BILLING CODE 4310-09-M

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[INT DES 88-61]

## Delta Export Service Area Water Contracting Program, California

**AGENCY:** Bureau of Reclamation (USBR), Interior.

**ACTION:** Extension of review period and change of public hearing dates on draft environmental impact statement.

**SUMMARY:** A Notice of Availability of the Draft Environmental Impact Statement (DEIS) and Notice of Public Hearing for water contracting in the Sacramento River Service Area was published in the **Federal Register**, Vol. 54, No. 2, pages 196-197, on January 4, 1989. Because of problems in circulating the DEIS, the deadline for comments has been extended and the four announced public hearings have been rescheduled.

**DATES:** The comment period on the DEIS has been extended to April 3, 1989.

**ADDRESSES:** The four public hearings have been rescheduled for 7 p.m. at the following locations:

Tuesday, March 14, 1989, Blue Gum Restaurant, Highway 99W, Willows, CA 95988.

Thursday, March 16, 1989, Holiday Inn/ Holidome, Sonora Room, 5321 Date Avenue, Sacramento, CA 95841.

Tuesday, March 21, 1989, Center Plaza Holiday Inn, Conference Center, Salons D1 and D2, 2233 Ventura, Fresno, CA 93721.

Thursday, March 23, 1989, Concord Hilton, Baldwin & Chabot Rooms, 1970 Diamond Blvd., Concord, CA 94520.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Payne or Mr. William Tully (Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA 95825), (916) 978-5130; or Dr. Wayne Deason (Manager, Environmental Services, Denver, CO), (303) 236-9336.

**SUPPLEMENTARY INFORMATION:** Comments on the DEIS may be submitted at any of the public hearings or submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento CA 95825-1898.

Date: February 12, 1989.

**Darrell W. Webber,**

*Acting Deputy Commissioner.*

[FR Doc. 89-2945 Filed 2-7-89; 8:45 am]

BILLING CODE 4310-09-M

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[INT DES 88-59]

## Sacramento River Service Area Water Contracting Program, California

**AGENCY:** Bureau of Reclamation (USBR), Interior.

**ACTION:** Extension of review period and change of public hearing dates on draft environmental impact statement.

**SUMMARY:** A Notice of Availability of the Draft Environmental Impact Statement (DEIS) and Notice of Public Hearings for water contracting in the Sacramento River Service Area was published in the **Federal Register**, Vol. 54, No. 2, pages 197-198, on January 4, 1989. Because of problems in circulating the DEIS, the deadline for comments has been extended and the four announced public hearings have been rescheduled.

**DATE:** The comment period on the DEIS has been extended to April 3, 1989.

**ADDRESSES:** The four public hearings have been rescheduled for 7 p.m. at the following locations:

Tuesday, March 14, 1989, Blue Gum Restaurant, Highway 99W, Willows, CA 95988.

Thursday, March 16, 1989, Holiday Inn/ Holidome, Sonora Room, 5321 Date Avenue, Sacramento, CA 95841.

Tuesday, March 21, 1989, Center Plaza Holiday Inn, Conference Center, Salons D1 and D2, 2233 Ventura, Fresno, CA 93721.

Thursday, March 23, 1989, Concord Hilton, Baldwin & Chabot Rooms, 1970 Diamond Blvd., Concord, CA 94520.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Payne or Mr. William Tully (Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA 95825), (916) 978-5130; or Dr. Wayne Deason (Manager, Environmental Services, Denver, CO), (303) 236-9336.

**SUPPLEMENTARY INFORMATION:** Comments on the DEIS may be submitted at any of the public hearings or submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento, CA 95825-1898.

Date: February 2, 1989.
**Darrell W. Webber,**
*Acting Deputy Commissioner.*
[FR Doc. 89-2946 Filed 2-7-89; 8:45 am]
BILLING CODE 4310-09-M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337-TA-285]**

### Certain Chemiluminescent Compositions and Components Thereof and Methods of Using the Same; Determination Not To Review an Initial Determination Finding Respondent Societe Prolufab in Default

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 13) finding respondent Societe Prolufab in default in the above-captioned investigation.

**ADDRESSES:** Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. O'Connell, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC, telephone 202-252-1108. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission TDD terminal on 202-252-1810.

**SUPPLEMENTARY INFORMATION:** On December 6, 1988, the presiding ALJ issued an order (Order No. 10) directing respondent Societe Prolufab (Prolufab) to show cause by December 28, 1988, why it should not be held in default in this investigation for failure to file a response to the complaint and notice of investigation, and for failure to respond to the discovery requests of complainant and the Commission investigative attorney. Prolufab did not respond to that order and, accordingly, the presiding administrative law judge, on January 6, 1989, issued an ID (Order No. 13) finding Prolufab in default. No petitions for review of the ID or government or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as amended by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418), and § 210.53 of the Commission's Interim Rules of Practice and Procedure, 53 FR 33070 (Aug. 29, 1988).

By order of the Commission.
**Kenneth R. Mason,**
*Secretary.*
Issued: January 31, 1989.
[FR Doc. 89-3017 Filed 2-7-89; 8:45 am]
BILLING CODE BC 7020-02-M

**[Investigation No. 337-TA-289]**

### Certain Concealed Cabinet Hinges and Mounting Plates; Notice to All Parties

The time for the commencement of the preliminary conference on February 10, 1989 in Hearing Room B of the ITC Building set in Order No. 3 has been changed from 1:00 p.m. to 2:30 p.m. Counsel for the parties have been notified by telephone on February 3 about the change in time.

The Secretary shall publish this notice in the **Federal Register.**

Issued: February 3, 1989.
**Paul J. Luckern,**
*Administrative Law Judge.*
[FR Doc. 89-3018 Filed 2-7-89; 8:45 am]
BILLING CODE 7020-02-M

**[Investigation No. 337-TA-284]**

### Certain Electric Power Tools, Battery Cartridges, and Battery Chargers; Decision Not To Review Initial Determination Granting Motion to Intervene

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Nonreview of an initial determination allowing The Robert Bosch Power Tool Corporation to intervene as a fully participating respondent in the subject investigation.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 26) issued by the presiding administrative law judge ("ALJ") granting The Robert Bosch Power Tool Corporation's motion to intervene in the above-captioned investigation as a fully participating respondent.

**FOR FURTHER INFORMATION CONTACT:** P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1061.

**SUPPLEMENTARY INFORMATION:**

*Background.* The subject investigation is being conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337 as amended by section 1342 of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418, 102 Stat. 1107 (1988)) in the importation or sale of certain electric power tools, battery cartridges, and battery chargers from Taiwan. The complainants are Makita USA, Inc. ("Makita"), and its subsidiary, Makita Corporation of America ("Makita"). Makita's complaint alleged that 31 respondents from Taiwan and the United States have engaged in infringement of Makita's common-law or registered trademarks, false representation, false advertising, and/or passing off in the importation or sale of the accused merchandise. *See* 53 FR 31112 (Aug. 17, 1988) as amended by 53 FR 47587 (Nov. 23, 1988).

On November 29, 1988, The Robert Bosch Corporation ("Bosch") moved to intervene in the investigation as respondent (Motion No. 284-30). That motion was subsequently amended to request that Bosch's subsidiary, the Robert Bosch Power Tool Corporation ("Bosch"), be permitted to intervene instead of The Robert Bosch Corporation (Motion No. 284-40).

On December 9, 1988, the Commission investigative attorneys filed a response supporting Bosch's motion. On December 13, 1988, Makita filed a response opposing the motion. By viture of their failure to file any response to the motion, all existing respondents were deemed to have consented to the motion. *See* interim rule 210.24(c), 53 FR 33043 and 33060 (Aug. 29, 1988).

On December 21, 1988, the presiding administrative law judge filed with the Commission Secretary an ID (Order No. 26) granting Bosch's motion to intervene. On January 3, 1989, Makita petitioned for review of the ID and requested oral argument on its petition. Bosch, the Commission investigative attorneys, and respondent Puma International Co., Ltd. ("Puma") filed responses opposing Makita's petition. Copies of the ID were served on other federal agencies as required by interim rule 210.53(e), 53 FR 33043 and 33070 (Aug. 29, 1988). However, the Commission did not receive any comments on the ID from other agencies.

On January 25, 1989, Makita filed a notice withdrawing its petition for review. The notice explained that that Makita and Bosch had reached a settlement agreement that would be presented to the presiding administrative law judge in order to

terminate Bosch as a respondent (if and when the Commission granted Bosch's motion for leave to intervene as a respondent).

Although Makita's petition for review was withdrawn, the Commission could have reviewed the ID on its own motion, if the facts and circumstances so warranted. *See* interim rules 210.55 and 210.54(a)(1)(ii), 53 FR 33043 and 33071 (Aug. 29, 1988). After considering the ID, however, the Commission found no basis for taking such action. By virtue of the Commission's determination not to review the ID, it has become the Commission's final determination on Bosch's motion to intervene. *See* interim rules 210.53(h) and 210.55, 53 FR 33043, 33070, and 44071 (Aug. 29, 1988), and 19 CFR 201.14(b).

Correction of the ID. Although the Commission found no error or policy reason warranting review, the Commission determined to make one minor correction in the text of the ID. The word "supplier," which appears in the following portions of the ID, is hereby changed to "manufacturer": page 1, last line of the second paragraph; and page 2, sixth line of the third paragraph. This correction was made in order to have the ID conform to the information provided in Bosch's motion to intervene.

Public inspection. Copies of the original and amended motions to intervene and the responses thereto, the ID, the petition for review of the ID the responses thereto, Makita's notice of withdrawal, and all other nonconfidential documents on the record of the investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone 202–252–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission TDD terminal on 202–252–1810.

By Order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

Issued: January 31, 1989.

[FR Doc. 89–3019 Filed 2–7–89; 8:45 am]

BILLING CODE 7020–02–M

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[332–268]

## Foreign Investment Barriers or Other Restrictions That Prevent Foreign Capital From Claiming the Benefits of Foreign Government Programs

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation and scheduling of hearing.

**SUMMARY:** Following receipt on November 16, 1988, of a request from the U.S. Trade Representative made at the direction of the President, the Commission instituted investigation No. 332–268 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) in order to identify countries which maintain investment barriers or other restrictions which effectively prevent foreign capital from claiming the benefit of government programs on the same terms as domestic capital.

**EFFECTIVE DATE:** January 27, 1989.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cynthia B. Foreso (202–252–1348) or Mr. Edward Matusik (202–252–1356) in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at 202–252–1091.

*Background:* The conference report accompanying the Omnibus Trade and Competitiveness Act of 1988 (Report No. 100–576, at p. 587) directs the U.S. Trade Representative to ask the U.S. International Trade Commission to conduct a section 332 investigation identifying countries which maintain investment barriers or other restrictions which effectively prevent foreign capital from claiming the benefit of foreign government programs on the same terms as domestic capital. The conference report further directs that the Commission's report should be submitted to the House Ways and Means Committee, the Senate Finance Committee, and the USTR. Based upon the ITC report, the conference report indicates the USTR should self-initiate section 301 investigations to address those practices it considers to be the most egregious unreasonable practices within the meaning of section 301 and to have the most adverse impact on U.S. industries.

*Written Submissions:* Interested persons are invited to submit written statements concerning the investigation. The Commission is seeking early comments from the public on (1) foreign government programs which create an advantage for domestic industries, (2) investment barriers or other restrictions that have the effect of denying these advantages to U.S. persons, and (3) the impact of such foreign practices on U.S. industry and trade. The Commission is seeking information on programs and investment barriers of all types, including those related to natural resource access and pricing. Early submission of written statements is desired, preferably by 5:00 p.m. on February 28, 1989, however written statements will be received up to the close of business on April 4, 1989. Early comment on areas of public concern will be used to the extent feasible to assist the Commission in focusing its investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

*Public Hearing:* A public hearing in connection with the investigation will be held in the Commission Hearing Room, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on April 18, 1989, and continuing as required on April 19. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file requests to appear and should file prehearing briefs (original and 14 copies) with the Secretary at the Commission's office in Washington, DC, not later than 5:00 p.m., April 4, 1989. Post-hearing briefs are due May 2, 1989.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252–1810.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

Issued: February 2, 1989.

[FR Doc. 89–3016 Filed 2–7–89; 8:45 am]

BILLING CODE 7020–02–M

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[Investigation No. 337–TA–281]

## Certain Recombinant Erythropoietin; Decision to Extend Deadline for Determining Whether to Review Initial Determination

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade

Commission has determined to extend the deadline for determining whether to review the initial determination (ID) issued by the administrative law judge (ALJ) granting summary determination on the domestic industry issue in this investigation to coincide with the deadline for determining whether to review the remainder of the final ID. The consolidated review deadline is February 27, 1989.

**ADDRESS:** Copies of the ID and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

**FOR FURTHER INFORMATION CONTACT:** Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1104. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

**SUPPLEMENTARY INFORMATION:** On January 10, 1989, the ALJ issued his final ID in this investigation. The final ID included an ID granting summary determination on the domestic industry issue. Under Commission interim rule § 210.53(h), 53 FR 33070 (Aug. 29, 1988), an ID granting summary determination becomes the Commission's determination 30 days after service of the ID unless the Commission orders review. Under the same Commission rule, a final ID becomes the Commission's determination 45 days after service of the ID unless the Commission orders review. The Commission has determined to extend the summary determination ID review deadline to coincide with the final ID review deadline.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and sections 201.14(b) and 210.53(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.14(b), 53 FR 33070 (Aug. 29, 1988)).

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

Issued: January 31, 1989.

[FR Doc. 89-3020 Filed 2-7-89; 8:45 am]

BILLING CODE BC 7020-02-M

## INTERSTATE COMMERCE COMMISSION

**[Docket Nos. AB-7 and AB-57; Sub-Nos. 114X and 29X]**

### CMC Real Estate Corp.; Abandonment Exemption and Soo Line Railroad Co.; Discontinuance of Operations Exemption; Chicago, IL

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance by Soo Line Railroad Company of operations on a line of railroad between the southwesterly line of Kingsbury Street and engineering station 36+50 in Chicago, IL, and the abandonment by CMC Real Estate Corporation of a line of railroad between engineering station 23+11 and engineering station 23+14.1 in Chicago, IL, subject to standard employee protective conditions. The abandonment modifies the scope of the notice of exemption in Docket No. AB-7 (Sub-No. 114X) to engineering stations 23+14.1 and 81.56.

**DATES:** These exemptions and the modified notice will be effective on February 23, 1989. Petitions to stay the exemptions must be filed by February 15, 1989. Petitions for reconsideration must be filed by February 21, 1989.

**ADDRESSES:** Send pleadings referring to Docket No. AB-57 (Sub-No. 29X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Railroad's representative: Glenn Olander-Quamme, Suite 1000, Soo Line Building, 105 South Fifth Street, Minneapolis, MN 55402

Send pleadings referring to Docket No. AB-7 (Sub-No. 114X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Railroad's representative: John Broadley, Jenner & Block 21 DuPont Circle, NW. Washington, DC 20036

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721.)

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289-4357/4359, (assistance for hearing impaired is available through TDD services (202) 275-1721.)

Decided: February 1, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

**Noreta R. McGee,**

*Secretary.*

[FR Doc. 89-2922 Filed 2-7-89; 8:45 am]

BILLING CODE FR 7035-01-M

## NATIONAL MEDIATION BOARD

### Performance Review Board; Membership

**ACTION:** Notice of appointment of members of the Performance Review Board.

Notice is hereby given in accordance with 5 USC 4314 of the membership of the National Mediation Board's Performance Review Board for the position of Executive Director. The members are as follows:

Mr. Joshau M. Javits, Member, National Mediation Board. Washington, DC.

Mr. Howard W. Solomon, Executive Director, Federal Service Impasses Panel, Washington, DC.

Mr. John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles R. Barnes Executive Director, 1425 K. Street, NW., Washington, DC 20572, (202) 523-5950.

By direction of the National Mediation Board.

**Charles R. Barnes,**

*Executive Director.*

[FR Doc. 89-2961 Filed 2-7-89; 8:45 am]

BILLING CODE 7550-01-M

## NUCLEAR REGULATORY COMMISSION

### Abnormal Occurrences for Third Quarter CY 1988; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incidents at NRC licensees were determined to be abnormal occurrences (AOs) using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). The abnormal

occurrences are described below, together with the remedial actions taken. The events are also being included in NUREG–0090, Vol. 11, No. 3 ("Report to Congress on Abnormal Occurrences: July–September 1988"). This report will be available in the NRC's Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC, about three weeks after the publication date of this **Federal Register** Notice.

**88–12 Multiple Medical Therapy Misadministrations**

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

*Date and Place*—Twenty-one medical therapy misadministrations during 1985 and 1986, reported to the NRC on April 6 and May 5, 1988; Marquette General Hospital, Marquette, Michigan.

*Nature and Probable Consequences*—On April 6, 1988, a medical physicist discovered that the doses given to two patients undergoing irradiation of the breast in November of 1985 and March of 1986 were about 85% of the prescribed doses. On the same day, the licensee notified NRC Region III of the misadministrations.

The licensee was using a proprietary computer program to calculate dose profiles in patients; however, there was an error in the procedure used to calculate the beam-on time using information generated by the treatment planning computer. The medical physicist who discovered the error in the two patient charts was conducting a quality assurance review of the treatment records.

Upon notification, the NRC requested the licensee to review its patient files to identify any additional patients who may have been treated using the erroneous computer program. On May 5, 1988, the licensee reported that 19 additional cases from September 1985 to October 1986 had been identified in which the actual doses were only about 85% of the prescribed doses. (The licensee stated that the procedure was no longer used after October 1986.) In regard to possible health effects, the licensee stated, "The radiation dose given is less than the prescribed dose. Radiobiologically, it is not harmful to the patient and no medical damage was done. The average given dose was about 15% less, however, it is still very close to the biological range. In addition, some of these patients received boost doses to the breast via electron or interstitial implants to localized areas."

Nevertheless, the event is of concern since a single error resulted in so many people receiving therapeutic doses other than were prescribed.

Cause or Causes—The cause was due to an error in the manual calculations that were performed on the treatment planning computer output. The licensee failed to detect the error before the procedure was used.

**Actions Taken to Prevent Recurrence**

*Licensee*—The particular procedure involved has not been used since October 1986. In order to prevent a recurrence of the type of event, the licensee committed to take the following actions:

(1) All current dose calibration procedures will be reviewed and documented by the physicist and the radiation oncologist to check for correctness.

(2) Before any new calculation procedures are initiated, they will be thoroughly discussed between the radiation oncologist and the physicist.

(3) If there are any questions brought up during these reviews, a physicist from an outside institution will be contacted for consultation.

The licensee submitted a quality assurance program to prevent recurrence of this type of event. The program has been incorporated into the licensee's license.

*NRC*—The incident, and the licensee's corrective actions, will be reviewed during the next NRC inspection at the hospital.

* * * * *

**88–13 Medical Diagnostic Misadministration**

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

*Date and Place*—June 27, 1988; The Fairfax Hospital, Falls Church, Virginia.

*Nature and Probable Consequences*—A patient was administered 2.7 millicuries of I–131 MIBG rather than the intended dose of 500 microcuries of I–131 MIBG.

I–131 MIBG is currently an Investigational New Drug and is used in a relatively new and rarely ordered diagnostic study performed at the hospital. Prior to the administration, the technologist involved, who was unfamiliar with the correct amount to administer, checked both the literature which accompanied the shipment and the department's procedure manual. However, even though the correct dose was listed in the procedure manual, the technologist missed it and assumed that the entire vial of 2.7 millicuries was to be administered.

The misadministration resulted in an estimated adrenal medullae dose of 268.4 rads, as calculated in accordance with literature supplied by the United States Food and Drug Administration. The thyroid burden should be negligible because the thyroid had been blocked with Lugols prior to the administration of the I–131 MIBG, as prescribed in the protocol.

The licensee stated the patient exhibited no adverse health effects.

*Cause of Causes*—The cause is attributed to the technologist's error in overlooking the proper dosage as listed in the department's procedure manual.

**Action Taken to Prevent Recurrence**

*Licensee*—The technologist was admonished and retrained.

*NRC*—NRC Region II telephoned the hospital for additional details on the incident. The incident will be reviewed during the next NRC inspection at the hospital.

* * * * *

Dated at Rockville, MD this 3d day of February 1989.

For the Nuclear Regulatory Commission.

**Samuel J. Chilk,**

*Secretary of the Commission.*

[FR Doc. 89–2975 Filed 2–7–89; 8:45 am]

BILLING CODE 7590–01–M

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## Public Workshop on the Individual Plant Examinations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Preliminary workshop agenda and announcement of availability of additional NRC Staff Guidance on IPEs.

**SUMMARY:** On November 23, 1988 the NRC Staff issued Generic Letter No. 88–20, IPE for Severe Accident Vulnerabilities. The Generic Letter requires all licensees holding operating licenses and construction permits for nuclear power reactor facilities to provide the Commission with information regarding plant specific severe accident vulnerabilities. Draft NUREG–1335 ("Individual Plant Examination: Submittal Guidance), which has now been published provides additional licensee guidance. In order to discuss the IPE objectives and solicit questions and points for clarification on the generic letter and additional guidance that has been provided, including draft NUREG–1335, the NRC plans to conduct a workshop. The announcement for the workshop was published in the **Federal Register** (53 FR

52881) on December 29, 1988. A free single copy of draft NUREG–1335 may be requested by those considering public comment by writing to the U.S. Nuclear Regulatory Commission, ATTN: Distribution Section, Room P–130A, Washington, DC 20555. A copy is also available for inspection and/or copying in the NRC Public Document Room, 2120 L Street NW., Lower Level of the Gelman Building, Washington, DC. A preliminary agenda of the workshop is provided below.

**DATES:** Workshop will be held February 28, 1989 and March 1–2, 1989.

**ADDRESS:** Workshop will be held at The Worthington Hotel, 200 Main Street, Fort Worth, Texas 76102.

**FOR FURTHER INFORMATION CONTACT:** John H. Flack, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–3979.

**SUPPLEMENTARY INFORMATION:**

The following is the preliminary agenda for the workshop.

Day 1: 9 a.m.—5 pm

1. Introduction and opening remarks.
2. Overview of Generic Letter 88–20, "Individual Plant Examination for Severe Accident Vulnerabilities."
3. Discussion on the Individual Plant Examination Methodology Staff Evaluation Report.
4. Discussion of Draft NUREG–1335.
5. Question/Answer Period.

Day 2: 9 am—5 pm

1. Introduction and opening remarks by the Workshop Chairman.
2. Remarks on preparing for external events in the IPE.
3. Consideration of Human Factors in the IPE.
4. Question/Answer Period.
5. Comments by the public and industry.

Statements and comments by the public and industry on matters relating to the performance of IPEs and submittals to NRC are requested. To schedule time for concise comments, please call NRC contact listed above.

6. Question/Answer Period.

Day 3: 9 am—5 pm

1. Highlight Summary of Questions, Comments, and Staff Responses.
2. Discussion on Accident Management.
3. Discussion of Integrated Safety Assessment.
4. Question/Answer Period.
5. General and Closing Comments.
6. Adjourn.

Dated in Rockville, Maryland this 3rd day of February 1989.

For the Nuclear Regulatory Commission.

**William Beckner,**

*Chief, Severe Accident Issues Branch, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.*

[FR Doc. 89–2976 Filed 2–7–89; 8:45 am]

BILLING CODE 7509–01–M

## Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

### I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 16, 1989 through January 27, 1989. The last biweekly notice was published on February 1, 1989 (54 FR 5159).

### NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 10, 1989 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should

also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

**Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas**

*Date of amendment request:* June 30, 1988

*Description of amendment request:* The proposed amendment would modify the Technical Specifications by adding surveillance requirements for the automatic actuation of the shunt trip attachments of the reactor trip breakers, and for the silicon controlled rectifier (SCR) trip relays used to interrupt power to the control rods, as required by Items 4.3 and 4.4 of Generic Letter 83-28, "Required Actions Based On Generic Implications of Salem Anticipated Transient Without Scram Events," and Generic Letter (GL) 85-10, "Technical Specifications For GL 83-28, Items 4.3 and 4.4."

This Notice supersedes the Notice published September 21, 1988 (53 FR 36668).

*Basis for proposed no significant hazards consideration determination:* As stated in 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration, if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of the above criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include: Example (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: e.g., "a more stringent surveillance requirement."

The proposed addition of surveillance test requirements and limiting conditions for operation for the RTB shunt trip attachments and the SCR trip relays are additional limitations not presently included in the Technical Specifications, and are therefore within the scope of the example.

Since the application for amendment involves a proposed change that is encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

*Attorney for licensee:* Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

*NRC Project Director:* Jose A. Calvo

**Arkansas Power & Light Company, Docket No. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas**

*Date of amendment request:* October 30, 1987

*Description of amendment request:* The proposed amendment would change the expiration date for Unit 1 Facility Operating License No. DPR-51 from December 6, 2008 to May 20, 2014 and would change the expiration date for Unit 2 Facility Operating License No. NPF-6, from December 6, 2012 to July 17, 2018.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The Arkansas Power and Light Company reviewed the proposed change and determined for Unit 1 and Unit 2 that:

(1) The proposed change does not involve any changes in plant design, physical changes to plant systems, equipment or structures, or modifications to Technical Specifications or plant procedures. The original plant design provides for 40 years of operation and postulated accidents have been evaluated accordingly. Surveillance, inspection, testing, and maintenance programs are in place to sustain the condition of the plant throughout its service life. In conclusion, the potential effects of 40 years of operation have been considered in the existing design, analyses and operation of the plant and, therefore, the probability or consequences of previously evaluated accidents has not been significantly increased.

(2) Since the proposed change does not affect the design or operation of the plant and programs are in place to maintain the plant throughout its service life, the change does not increase the possibility of a new or different accident from those previously evaluated.

(3) The proposed change does not involve any changes in plant design, physical changes to plant systems, equipment or structures, or modifications to Technical Specifications or plant procedures. Existing surveillance, inspection, testing, and maintenance programs sustain the condition of the plant throughout its service life. These measures, together with continued operation in accordance with the Technical Specifications assure that an adequate margin of safety is preserved on a continuous basis. Therefore, the extension of the operating license term does not result in a significant reduction in a margin of safety.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

*Attorney for licensee:* Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

*NRC Project Director:* Jose A. Calvo

**Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut and Northeast Nuclear Energy Company, et al., Docket Nos. 50-245/336/423, Millstone Nuclear Power Station, Unit Nos. 1, 2 and 3, New London County, Connecticut**

*Date of amendment request:* January 12, 1989

*Description of amendment request:* The proposed amendments to the Technical Specifications (TS) will add a new requirement to TS Section 6.7, "Safety Limit Violation." This requirement will state that "operation shall not be resumed until authorized by the Commission." This proposed change will make the TS for the four plants consistent with the requirements of 10 CFR 50.36.

In addition a change to the Millstone Unit 3 TS has been proposed to change the requirement for auditing TS compliance from all provisions in each section to provision in each section, each year, during the five-year audit cycle for this plant. This change will make the Millstone Unit 3 TS consistent with the TS for the other three plants.

*Basis for proposed no significant hazards consideration determination:* The licensees have reviewed the proposed changes in accordance with 10 CFR 50.92 and have concluded and the staff agrees that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. The proposed changes will make the technical specifications consistent with 10 CFR 50.36 for Safety Limit Violations. In addition, the change proposed in the area of Nuclear Review Board Audits will make Millstone Unit 3 consistent with the Westinghouse Standard TS and other Nuclear Plant's Technical Specifications. These changes will not increase the probability of occurrence or the consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced.

3. Involve a significant reduction in the margin of safety. Since the proposed changes do not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

*Local Public Document Room location:* Russell Library, 123 Broad Street, Middletown, Connecticut 06457 and the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

*NRC Project Director:* John F. Stolz

**Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York**

*Date of amendment request:* September 30, 1988 as supplemented December 30, 1988 and revised January 20, 1989.

*Description of amendment request:* The amendment would revise the Indian Point 2 Technical Specifications to allow a fuel design transition to Westinghouse 15X15 Optimized Fuel Assemblies (OFA) fuel. Indian Point 2 has been operating with a Westinghouse 15X15 low-parasitic (LOPAR) fueled core. The

15X15 OFA fuel has design features similar to the 15X15 LOPAR fuel. The major design difference is the use of seven middle zircoloy grids for the OFA fuel versus seven middle inconel grids for the LOPAR fuel. Several of the plant operating limitations contained in the Technical Specifications will require revisions to allow the use of the OFA fuel and are discussed below.

1. *Administrative Changes* - References to LOPAR fuel throughout the Technical Specifications will be revised. In addition, the licensee is using this amendment application to delete obsolete requirements, relocate requirements to other sections of the Technical Specifications and make typographical corrections and clarifications.

2. *Improved Thermal Design Procedure and WRB-1 Correlation* - The proposed changes to Technical Specification Figure 2.1-1 would include a change to the thermal hydraulic design method used to satisfy the Departure from Nucleate Boiling design bases for Indian Point 2.

3. *Low Pressurizer Pressure Reactor Trip Setpoint* - The proposed changes to Technical Specification 2.3.1.B(3) would increase the minimum allowable value for the low pressurizer pressure reactor trip set point from greater than or equal to 1700 psig to greater than 1870 psig. The change is being proposed to revise the allowable setpoint trip to a value more consistent with plant operation.

4. *Over Temperature delta T and Over Power delta T Setpoints* - The proposed amendment would change Technical Specifications 2.3.1.B(4), 2.3.1.B(5) and Figure 2.1-1 concerning Overtemperature delta T and Overpower delta T. The revision to Figure 2.1-1 results from the implementation of a change in the Westinghouse DNB methodology as discussed in 2 above and a change in the allowable F delta H discussed in 8 below. The changes to 2.3.1.B(4) and 2.3.1.B(5) reflect the revised reactor core safety limits given in the proposed Figure 2.1-1.

5. *Boric Acid Storage System Volume* - The proposed revision to Section 3.2 changes the minimum volume requirements of the Boric Acid Storage System from 4400 to 6000 gallons. The revision is proposed to provide additional fuel management flexibility.

6. *Safety Injection Accumulators* - The proposed revision to Specification 3.3.A.1.C changes the Safety Injection Accumulators pressure and volume requirements from 600 psig and a minimum of 814.5 $ft^3$ and a maximum of 829.5 $ft^3$ to 615 psig and a minimum of 787.5 $ft^3$ and a maximum of 802.5 $ft^3$ respectively. The changes are proposed to provide increased flexibility in fuel management.

7. *Boron Concentration and Shutdown Margin* - The proposed revision to Specification 3.8.B.2 would decrease the required shutdown margin during refueling from 10% delta k/k to 5% delta k/k and fix the minimum refueling boron concentration at 2000 ppm. To maintain consistency Specification 3.6.A.1 will also be revised to reflect the revised shutdown margin and minimum boron concentration. The changes are proposed to provide increased flexibility in fuel management.

8. *Power Distribution F delta H* - The proposed revision to Specification 3.10.2.1 would increase the allowable peak value of F delta H at 100% power from 1.55 to 1.62. This change is proposed to increase flexibility in fuel management.

9. *Rod Drop Time* - The proposed revision to Specification 3.10.8, Rod Drop Time, would change the control rod drop time interval of 1.8 seconds from loss of stationary gripper core voltage to dashpot entry to a control rod drop time interval of 2.4 seconds from gripper release to dashpot entry.

10. *Hot Channel Factor* $F_Q(Z)$ - The proposed revision to Technical Specification 3.10 would revise the normalized total peaking factor as a function of core height. This would increase the allowable normalized total peaking factor at the upper elevations of the reactor core and is being revised to reflect the new LOCA analyses.

11. *Low Pressure Safety Injection Setpoint* - The proposed revision to Table 3.5-1 changes the pressurizer low pressure safety injection setpoint from 1700 to 1829 psig. The purpose of the proposed change is to account for possible instrument error.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In accordance with the above criteria, the licensee provided the following no significant hazards analysis for the eleven categories of change discussed above.

1. Administrative changes

...these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed revisions do not affect plant operations. The proposed revisions delete obsolete specifications, relocate existing specifications and add corrections and clarifications.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed revisions delete obsolete specifications, relocate existing specifications and add corrections and clarifications. The proposed changes do not modify the plant's configuration or operation. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or initiating circumstances than those previously evaluated.

(3) Involve a significant reduction in a margin safety. With the proposed changes, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety. Because these changes are administrative in nature their implementation does not affect any margin of safety.

2. Improve Thermal Design Procedure and WRB-1 Correlation

...this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The ITDP and WRB-1 represent changes to analyses methods only. The probability of an accident occurring is not impacted by the methods selected to evaluate the DNB design basis associated with that accident once it has been postulated to occur. The consequences of the accident must satisfy the same DNB design basis as previously evaluated. Use of ITDP and the WRB-1 do not decrease the available DNB margins when evaluating an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The noted changes are to the methods used in evaluating the DNB design basis only and are involved in analyses only after an accident has been postulated to occur.

(3) Involve a significant reduction in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety. The DNB design criteria continues to be satisfied with the use of ITDP and the WRB-1. As described in the safety assessment, use of this improved method and correlation do not decrease DNB margin over methods and correlations previously used in Indian Point Unit 2.

3. Low Pressurizer Pressure Reactor Trip Setpoint

...this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed revision is supported by conservative analyses utilizing the latest approved computer codes and methodology. These analyses have demonstrated conformance to the applicable design and regulatory criteria.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change to the minimum allowable setpoint for reactor trip on low pressurizer pressure does not modify the plant's configuration or operation, and therefore the identical postulated accidents are the only ones that require evaluation and resolution. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or initiating circumstance than that previously evaluated.

In general, the proposed change does not adversely effect the ability of the pressurizer low pressure reactor trip signal to perform its safety function to initiate reactor core shutdown during a rapid depressurization event.

(3) Involve a significant reduction in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety.

The safety function of reactor trip on low pressurizer pressure is to initiate reactor core shutdown during a severe depressurization event and to ensure that the reactor coolant system pressure does not exceed the applicable lower limit for the overtemperature and overpower delta T protection. Worst case large and small break LOCA transients were reanalyzed using the latest approved computer codes and methodology as a basis for evaluating this proposed change. For the Non-LOCA accidents, analyses and evaluations demonstrate continued conformance to all applicable design and safety criteria.

4. Over Temperature delta T and Overpower delta T Setpoints

...these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed revision is supported by conservative evaluations and analyses utilizing the latest approved computer codes and methodology. These analyses have demonstrated conformance to the applicable design and regulatory criteria.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes to the OT delta T and OP delta T setpoint functions for reactor trip do not modify the plant's configuration or operation, and therefore the identical postulated accidents are the only ones that require evaluation and resolution. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or initiating circumstance than that previously evaluated.

In general, the proposed changes do not adversely affect the ability of OT delta T and OP delta T reactor trip signals to perform their safety function to initiate reactor core shutdown during an overtemperature delta T or overpower delta T transient condition, respectively.

(3) Involve a significant reduction in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety.

The safety function of reactor trip on overtemperature delta T and overpower delta T is to initiate reactor core shutdown during delta T transient events to ensure that the reactor core safety limits as defined in Technical Specification Figure 2.1-1 are not exceeded. Evaluations and/or analyses for all of the licensing basis accidents described in FSAR Chapter 14 which take credit for an OT delta T or OP delta T reactor trip have been performed and the results of these analyses and evaluations have demonstrated conformance with the applicable design and regulatory requirements.

5. Boric Acid Storage System Volume

...this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The volume or boric acid required in the boric acid storage system is not considered in the mitigation of Chapter 14 events. The volume is required to ensure that a sufficient volume of boric acid solution is available to borate the reactor coolant system to a cold shutdown condition.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The larger volume requirement is well within the capacity of the boric acid storage system. The RWST provides an alternative source of boric acid to meet redundancy requirements.

(3) Involve a significant reduction in a margin of safety. The use of the more conservative shutdown margin assumptions have not decreased, but actually increased cold shutdown boration capability.

6. Safety Injection Accumulators

...this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed revisions are supported by conservative analysis utilizing the latest approved computer codes and methodology for large break LOCA and by evaluation of conformance to the applicable design and regulatory criteria in the unlikely event of a small or large break LOCA.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes to the accumulator cover gas pressure and water volume do not modify the plant's configuration or operation, and therefore the identical postulated accidents are the only ones that require evaluation and resolution. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or initiating circumstances than those previously evaluated.

The proposed changes are within the capabilities of the system and do not adversely effect the ability of the emergency core cooling system accumulators to perform their safety function to provide passive injection of borated water to the reactor coolant system.

(3) Involve a significant reduction in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety.

The safety function of the emergency core cooling system accumulators is to provide passive injection of borated water to the reactor coolant system in the event of massive depressurization and loss of reactor coolant inventory. The worst case large break LOCA transient was reanalyzed using the latest approved computer codes and methodology as a basis for evaluating these proposed changes, and evaluations have determined that these changes will not adversely affect the results of small break LOCA analyses. These analyses/evaluations demonstrate continued conformance to all applicable design and safety criteria.

7. Boron Concentration Shutdown Margin

...these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed revision is supported by conservative analyses utilizing approved methodology. These analyses have demonstrated conformance to the applicable design and regulatory criteria.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change to the refueling shutdown margin and minimum boron concentration does not modify the plant's configuration or operation, and therefore the identical postulated accidents are the only ones that require evaluation and resolution. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or initiating circumstance than that previously evaluated.

In general, the proposed change does not adversely affect the ability to keep the reactor safely shutdown during refueling operations.

(3) Involve a significant reduction in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety.

The safety function of refueling shutdown margin and minimum boron concentration is to keep the reactor core shutdown during refueling operations. Safety analyses for the licensing basis accident described in FSAR Chapter 14 which take credit for refueling boron concentration have been performed and the results of these analyses have demonstrated conformace with the applicable design and regulatory requirements.

8. Power Distribution F delta H

...this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The peak F delta H value represents a design limit on peaking factors which must be satisfied for plant operation. This proposed change is supported by conservative analyses and evaluations based on approved codes and methodologies. All applicable design and safety criteria continue to be satisfied.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change in the design and operational limit value of F delta H does not modify the plant's configuration or operation, and therefore the previously postulated accidents are the only ones that require evaluation or resolution. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or

initiating circumstances than that previously evaluated.

(3) Involve a significant reduction in a margin of safety. With the proposed changes, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety. Approved analysis codes and methodologies were employed as the basis for evaluating this proposed change.

All applicable LOCA and non-LOCA design and safety criteria continue to be satisfied including the impact of an increased F delta H.

9. Rod Drop Time

...these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed revision is supported by conservative evaluations and analyses utilizing the latest approved computer codes and methodology. These analyses have demonstrated conformance to the applicable design and regulatory criteria.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change to the control rod drop time for reactor trip does not modify the plant's configuration or operation, and therefore the identical postulated accidents are the only ones that require evaluation and resolution. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or initiating circumstance than that previously evaluated.

In general, the proposed change does not adversely affect the ability of control rods to perform their safety function of intitiating core shutdown in response to a reactor trip signal.

(3) Involve a significant reduction in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety.

The safety function of control rod drop in response to a reactor trip signal is to initiate reactor core shutdown. Safety evaluations and analysis for all of the licensing basis accidents described in FSAR Chapter 14 which take credit for a reactor trip have been performed and the results of these analyses and evaluations have demonstrated conformance with the applicable design and regulatory requirements.

10. Hot Channel Factor $F_Q(Z)$

...this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed revision is supported by conservative analyses utilizing the latest approved computer codes and methodology. These analyses have demonstrated conformance to the applicable design and regulatory criteria in the unlikely event of a small or large break LOCA.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change to the allowable core axial power distribution limits does not modify the plant's configuration or operation, and therefore the identical postulated accidents are the only ones that require evaluation and resolution. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or initiating circumstances than that previously evaluated.

(3) Involve a significant reduction in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety.

Worst case large and small break LOCA transients were reanalyzed using the latest approved computer codes and methodology as a basis for evaluating this proposed change. These anlayses demonstrate continued conformance to all applicable design and safety criteria.

11. Low Pressurizer Pressure Safety Injection Setpoint

...these changes would not:

(1) Involve a significant increase in the probability or consequence or an accident previously evaluated. The proposed revision assures that assumptions are met for the existing safety analyses.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change to the minimum allowable setpoint for safety injection on low pressurizer pressure does not modify the plant's configuration or operation, and therefore the identical postulated accidents are the only ones that require evaluation and resolution. Nothing would be added or removed that could conceivably introduce a new or different kind of accident mechanism or initiating circumstances than those previously evaluated.

(3) Involve a significant reduciton in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and continue to maintain the previous margins of safety.

The safety function of the safety injection on low pressurizer pressure is to initiate safety injection flow during a severe depressurization event. The proposed change will increase the allowable pressure setpoint and assure that safety injection flow will be delivered to the reactor core as assumed in the safety analyses.

The proposed changes to the Technical Specifications are as a result of core reload and not because of any significant changes made to the acceptance criteria for technical specifications, and the analytical methods used by the licensee in the required reload analyses have been previously found acceptable by the NRC. Therefore, based on the above the staff proposes that the proposed changes do not represent a significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

*Attorney for licensee:* Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

*NRC Project Director:* Robert A. Capra, Director

**Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina**

*Date of amendment request:* December 21, 1987

*Description of amendment request:* The proposed amendments to Technical Specification (TS) 4.7.6.d would extend the sampling interval of the carbon adsorbers of the Control Room Area Ventilation System from 720 hours to 1440 hours. With sampling every 720 hours, the six sampling canisters in each of the two carbon beds would be used up in a year. Installing fresh sample canisters requires opening and resealing the covers of the carbon beds. By TS 4.7.6e, these operations require leak tests and penetration tests which normally would not be required for 18 months. By extending the sampling interval from 720 hours to 1440 hours, the surveillance required by TS 4.7.6e would need to be performed only after the normal 18-month interval. The state of the art triethylenediamine-treated carbon adsorbers have been demonstrated by laboratory tests to remain highly efficient in adsorbing methyl iodide after extended operation.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its submittal of December 21, 1987, provided the following discussion and anlysis with regard to the three 10 CFR 50.92 standards:

The OPERABILITY of the Control Room Area Ventilation System ensures that: (1) the ambient air temperature does not exceed the allowable temperature for continuous-duty rating for the equipment and instrumentation cooled by this system, and (2) the control room will remain habitable for operations personnel during and following all credible accident conditions. Technical Specification 4.7.6, Control Room Area Ventilation System Surveillance Requirements, ensures that the System remains operable as required.

Proposed Technical Specification 4.7.6.d seeks to extend the Control Room Ventilation System Carbon adsorber sample time interval

from 720 hours to 1440 hours because existing requirements are overly restrictive. Catawba Nuclear Station is equipped with state of the art Control Room Ventilation System Carbon adsorbers which retain very high efficiencies over prolonged intervals of operation. Laboratory data support the efficiency of the Carbon adsorbers. Therefore, it is reasonable and justifiable to extend the carbon adsorber sample time interval as indicated in the proposed Technical Specification.

Existing Technical Specification 4.7.6.d indicates that each Control Room Area Ventilation System is to be demonstrated operable after every 720 hours (30 days) of carbon adsorber operation by verifying within 31 days after removal that a laboratory analysis of a representative carbon sample meets the laboratory testing criteria of Regulatory Position C.6.b of Regulatory Guide 1.52, Revision 2, March 1978, for a methyl iodide penetration of less than 1%. The filter units in service at Catawba Nuclear Station currently have no bypass mode. Therefore, either A train (1CRA-PFT-1) or B train (2CRA-PFT-1) must operate in the filtered mode continuously. This design configuration allows one unit to run continuously for 30 days before a sample must be removed.

Each filter unit is initially provided with six installed sample canisters. If one canister is removed every 30 days (one canister from each unit is removed every 2 months) the samples would be depleted after one year. The removed canisters are to be reloaded and reinstalled in the filter unit. Removal of the cover from the carbon bed jeopardizes Unit integrity and a refrigerant penetration leak rate test is required on the carbon bed whenever the cover is removed. This results in the Technical Specification 4.7.6.e surveillance test interval being reduced from the normal 18 month to one year or less. Therefore the existing sampling interval is overly restrictive and results in excessive sampling of the Control Room pressurizing filter units. Proposed Technical Specification 4.7.6.d would allow for a normal 18 month surveillance test interval (as required by existing Technical Specification 4.7.6.e) by extending the Technical Specification 4.7.6.d sample interval from 720 hours to 1440 hours.

Historical data supports the proposed Technical Specification 4.7.6.d sampling interval of 1440 hours. Laboratory sample analysis results for filter units 1CRA-PFT-1 and 2CRA-PFT-2 show that over the course of one year and more than 4,000 hours of run time per unit covering typical atmospheric and seasonal meteorological conditions, there was no noticeable degradation in the methly iodide efficiency of the carbon. The sample results varied from 99.98% to 99.95% for 1CRA-PFT-1 and from 99.99% to 99.90% efficiency for 2CRA-PFT-1. Therefore, the proposed extension of the Technical Specifications 4.7.6.d sample interval is justifiable due to the high efficiency of the carbon in 1CRA-PFT-1 and 2CRA-PFT-1 and their ability to retain their efficiency over the course of prolonged operation as shown by the subject laboratory sample results.

The air flow rate through 1CRA-PFT-1 and 2CRA-PFT-2 is 6,000 cubic feet per minute (CFM) of which 4,000 cfm is outside air and 2,000 is recirculated Control Room area air. Since Catawba Nuclear Station is located in a rural environment, away from any major industrial plants, the outside air is essentially clean and free of any industrial pollutants. Therefore, circulation of outside air through the filter units has no detrimental effect on the efficiency of the carbon. This phenomena is demonstrated by Catawba's carbon analyses results from the start of plant operation.

Additionally, the carbon utilized at Catawba Nuclear Station is activated and impregnated with Triethylenediamine (TEDA). This type of carbon is a state-of-art-the-art material which results in high methyl iodide efficiency as shown by laboratory analysis of the samples. The 720 hours run time interval recommended by Regulatory Guide 1.52 is an arbitrary value applying to activated carbon. Since Catawba's carbon is activated impregnated with TEDA, the methyl iodide efficiency has been increased substantially.

In summary, the Control Room Ventilation System carbon adsorbers have been proven to maintain very high levels of Methyl Iodide efficiency under extended operation conditions. Laboratory analysis of carbon samples indicate that extending the sampling interval to 1440 hours has an insignificant effect on the efficiency of the adsorbers. Also, outside air circulated through the adsorbers is of high quality and would not impact the efficiency of the adsorbers even if sampling intervals are extended. Therefore, the proposed change to Technical Specification 4.7.6.d is reasonable and technically justifiable.

Pursuant to 10 CFR 50.92, this analysis provides a determination that the proposed amendments to the Technical Specifications involves no significant hazards considerations if operation in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant increase in the probability or consequences of any previously evaluated accident. Catawba Nuclear Station is equipped with state of the art Control Room Ventilation System Carbon adsorbers which retain very high Methyl Iodide efficiencies over prolonged intervals of operation. Previous laboratory analysis results indicate that over the course of a one year and more than 4,000 hours of runtime covering typical atmospheric and seasonal conditions, there is no noticeable degradation in the methyl iodide efficiency of the adsorber and that the carbon is perfectly capable of extended operation. Increasing the Technical Specification 4.7.6.d sample time intervals to 1440 hours has no significant impact to the efficiency of the carbon adsorbers and Control Room Area Ventilation System operability. Therefore, the proposed change cannot increase the probability or consequences of any previously evaluated accident.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed increase of Technical Specification 4.7.6.d sample time intervals to 1440 hours has no effect on the function, operation, or efficiency of the Control Room Area Ventilation System. Therefore the proposed Technical Specification change cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not involve a significant reduction in a margin of safety. As it was previously indicated, the Catawba Station Control Room Ventilation System Carbon adsorbers are capable of extended operation without any significant reduction in their Methyl Iodide removal efficiency. Previous laboratory carbon sample analysis results indicate that the proposed carbon adsorber sampling interval of 1440 hours will not reduce the efficiency of the Control Room Ventilation System in any significant manner. Therefore, the proposed Technical Specification does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's submittal and agrees that the proposed amendments would not have a significant adverse effect on the safe operation of the facility. Laboratory tests and plant experience have demonstrated the continued high adsorption efficiency of triethylenediamine-treated carbon after air ciculuation for 4000 hours. Also, contaminants such as industrial pollutants which could affect the carbon adsorption efficiency are absent in the pure outside air in the rural environment of the plant. The staff also agrees with the licensee's evaluation of the proposed amendment with respect to the three standards of 10 CFR 50.92.

On this basis, the Commission has concluded that the requested amendments meet the three standards and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

*NRC Project Director:* David B. Matthews

**Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina**

*Date of amendment request:* September 19, 1988, as supplemented December 28, 1988

*Description of amendment request:* The proposed amendments would revise the setpoints for Catawba Unit 2 steam generator level trips due to the planned relocation of level taps. The changes are applicable to Unit 2 only. Unit 1 is included administratively because the Technical Specifications are combined in one document for both units. The proposed changes for Unit 2 would revise:

(1) Table 2.2-1, Item 13.b.

(2) Table 3.3-4, Items 5.b.2., 6.c.2., and 8.c.2)

(3) the basis for Steam Generator Water Level, page B 2-7

Catawba Unit 2 is equipped with Westinghouse Model D5 steam generators while Unit 1 has Model D3. A major difference between those two models is the design of the moisture separator section. Two aspects of this design difference are of significance with respect to the proposed modification: (1) The D5 has a higher recirculation rate than the D3, and (2) the elevation of the lower deck plate in the D5 is higher than in the D3. Due to these differences, the lower instrument tap for the narrow range level instrumentation was located above the transition cone and lower deck plate on the D5 as opposed to below the transition cone in the downcomer in the D3. This has resulted in significantly different operating characteristics. The proposed modification will relocate the D5 lower instrument tap to the same location as the D3. Due to the location of the lower tap in model D5 generators, the shrink and swell characteristics are more pronounced than in the D3 model. This makes plant control difficult and more susceptible to trips.

In order to determine the potential gain in operational control characteristics of the D5 steam generator if the lower instrument tap were relocated to the equivalent location as the D3, Duke and Westinghouse installed pilot instrumentation on the Catawba 2C generator. Transient data have shown that the modified D5 level instrumentation will perform similarly to the D3 in terms of post-trip response.

The present span between the high level and low level trips on the D5 is physically bounded by the elevation of the top of the moisture separator swirl vanes and the elevation of the lower instrument tap, respectively. By relocating the lower tap, the lower level trip setpoint can be reduced. The high and operating level trip setpoints will also be reduced. The low level trip setpoint will be set at the elevation of the lower deck plate. With this arrangement, the margin between the operating level setpoint and low level trip setpoint will be increased from a current 42" to 58". This will make Unit 2 more tolerant to feedwater system malfunctions at power, thus reducing unnecessary trips and corresponding challenges to safety systems.

Relocating the narrow range instrumentation lower sensing tap on the Westinghouse model D5 steam generators to the same elevation as the model D3 steam generators would provide the following safety enhancements:

(1) The effects of level shrink and swell at low power levels will be greatly reduced, thus reducing the potential for reactor trips.

(2) The time necessary to recover indicated level following a reactor trip will be greatly reduced, thus reducing the potential for an overcooling event due to excessive auxiliary feedwater.

(3) The margin to low level trip will be increased thus reducing the potential for reactor trips at power.

Relocation of the level sensing tap to the downcomer region requires that the velocity induced error be accounted for in the determination of trip and operating level setpoints. This can be accomplished without reducing any current margin to trip.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because the Westinghouse Safety Evaluation discusses the transients not requiring any reanalysis as well as those that required reanalysis. Its findings indicated that no conclusions in the Catawba Final Safety Analysis Report will be violated by relocating the steam generator level taps. The licensee reviewed two other events: (1) steam generator tube rupture and (2) loss-of-coolant accident (LOCA) to evaluate the need for reanalyses. The licensee concluded that no reanalyses were needed and that the conclusions of the current analyses remain bounding.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because relocating the level tap on the D5 generator should improve operation and no new modes of operation are introduced.

The proposed amendments do not involve a significant reduction in margin of safety because the modification would enhance safety by making the steam generators less susceptible to feedwater transients. This would reduce the potential for reactor and turbine trips and would avoid unnecessary transients on the primary and secondary systems.

Accordingly, the Commission has concluded that the requested changes meet the three standards and, therefore, has made a proposed determination that the requested license amendments do not involve a significant hazards consideration.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

*NRC Project Director:* David B. Matthews

**Duke Power Company, Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina**

*Date of amendment request:* November 28, 1988

*Description of amendment request:* The proposed amendments would change Technical Specification (TS) TS 6.2.3 to clarify and supplement the specified function, composition, responsibilities, reporting, and records requirements for the Catawba Safety Review Group (CSRG) consistent with Item I.B.1.2 of NUREG-0737. Specifically,

- The function of the CSRG in TS 6.2.3.1 would be revised to specifically define the function of the group.

- The composition of the CSRG in TS 6.2.3.2 would be revised to add the qualification requirements for members of the group.

- The responsibilities requirement of TS 6.2.3.3 would be revised to replace a general statement with an itemized list of specific responsibilities.

- The reporting of the CSRG, specified by TS 6.2.3.4, would be revised to reflect that they report to the Manager of Nuclear Safety Assurance, rather than

to the Director, Nuclear Safety Review Board.

- The recordkeeping and distribution requirements of TS 6.2.3.5 would be revised to require that records of CSRG activities be maintained for the life of the station, and that reports of CSRG activities be forwarded to the Manager of Nuclear Safety Assurance.

*Basis for proposed no significant hazards consideration determination:* TS 6.2.3 provides requirements regarding administrative controls for the CSRG which represents the "Independent Safety Engineering Group" required by Item I.B.1.2 of NUREG-0737. The existing TS 6.2.3 is ambiguous and lacking in the necessary level of specificity to ensure effective control regarding the function, composition, responsibilities, reporting and records requirements of the CSRG. The proposed changes would correct this deficiency and, thereby provide increased assurance of compliance with Item I.B.1.2 of NUREG-0737.

The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The proposed changes do not match the examples. However, the staff has reviewed the licensee's request for amendments and has determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety; rather these changes ensure that the administrative control aspects for the CSRG will be maintained in accordance with NUREG-0737 requirements for an independent safety engineering group. Accordingly, the Commission proposes to find that the changes do not involve a significant hazards consideration.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina, 29730

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

*NRC Project Director:* David B. Matthews

**Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina**

*Date of amendment request:* January 17, 1989

*Description of amendment request:* The proposed amendments would revise Technical Specification (TS) Table 3.3-5, Item 15, and Surveillance Requirement (SR) 4.7.1.2.1b.4) to increase the Auxiliary Feedwater (CA) System suction swapover time from less than or equal to 15 seconds to less than or equal to 16 seconds. This would be accomplished by increasing the delay time from 5 to a maximum of 6 seconds. The proposed wording of the notes associated with Item 15 of TS Table 3.3-5 and SR 4.7.1.2.1b.4) would be modified to clearly state that the 6 seconds represent the maximum delay time and that a shorter delay may be acceptable.

This proposed change is in response to Corrective Action (9) contained in Licensee Event Report (LER) 414/88-12 dated April 8, 1988. This LER described an incident at Catawba Unit 2 where Train A Suction for the motor-driven CA pump inadvertently swapped over from the normal condensate grade supply to the Nuclear Service Water System.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluted; or (3) involve a significant reduction in a margin of safety.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes would reduce the probability of an inadvertent swapover and would not affect the previously evaluated accident analyses discussed in the Final Safety Analysis Report.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because the increase in the swapover time would not significantly impact the design basis of the system and no new modes of operation are introduced.

The proposed amendments do not involve a significant reduction in a margin of safety because the changes would reduce the probability of an inadvertent swapover without increasing its consequences.

Accordingly, the Commission has concluded that the requested changes meet the three standards and, therefore, has made a proposed determination that the requested license amendments do not involve a significant hazards consideration.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

*NRC Project Director:* David B. Matthews

**Duke Power Company, Docket Nos. 50-369 and 50-370 McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina**

*Date of amendment request:* November 28, 1988

*Description of amendment request:* The proposed amendments would change the name of the "Station Safety Review Group (SSRG)" in Technical Specification (TS) 6.2.3 to the "McGuire Safety Review Group (MSRG)." The change to TS 6.2.3 would also clarify and supplement the specified function, composition, responsibilities, reporting, and records requirements for the MSRG consistent with Item I.B.I.2 of NUREG-0737. Specifically,

- The function of the MSRG in TS 6.2.3.1 would be revised to specifically define the function of the group.

- The composition of the MSRG in TS 6.2.3.1 would be revised to add the qualification requirements for members of the group.

- The responsibilities requirement of TS 6.2.3.3 would be revised to replace a general statement with an itemized list of specific responsibilities.

- The reporting of the MSRG, specified by TS 6.2.3.4, would be revised to reflect that they report to the Manager of Nuclear Safety Assurance, rather than to the Director, Nuclear Safety Review Board.

- The recordkeeping and distribution requirements of TS 6.2.3.5 would be revised to require that records of MSRG activities be maintained for the life of the station, and that reports of MSRG activities be forwarded to the Manager of Nuclear Safety Assurance.

*Basis for proposed no significant hazards consideration determination:* TS 6.2.3 provides requirements regarding administrative controls for the MSRG. The MSRG at McGuire represents the "Independent Safety Engineering Group" which is required by Item I.B.I.2 of NUREG-0737. The existing TS 6.2.3 is ambiguous and lacking in the necessary level of specificity to ensure effective control regarding the function, composition, responsibilities, reporting and records requirements of the MSRG.

The proposed changes would correct this deficiency and, thereby provide increased assurance of compliance with NUREG-0737 Item I.B.I.2.

The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. One of the examples (i) is "a purely administrative change to technical specifications; for example, ... a change in nomenclature." The change to replace SSRG by MSRG matches this example. The other proposed changes do not match the examples. However, the staff has reviewed the licensee's request for amendments and has determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety; rather these changes ensure that the administrative control aspects for the MSRG will be maintained in accordance with the NUREG-0737 requirements for an independent safety engineering group. Accordingly, the Commission proposes to find that the changes do not involve a significant hazards consideration.

*Local Public Document Room location:* Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

*NRC Project Director:* David B. Matthews

**Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida**

*Date of amendment request:* December 23, 1988

*Description of amendment request:* The amendment would allow the licensee to store fuel of up to 4.5 percent enrichment in both the dry fuel storage racks and storage pool A. This request is a result of the licensee's intent to use fuel of up to 4.2 percent enrichment during Fuel Cycle 9. The licensee is currently limited to storing fuel of 4.0 and 3.5 percent enrichment in the dry fuel storage racks and storage pool A respectively.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided criteria for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three criteria in the amendment application and made a no significant hazards consideration determination. In regard to the first criterion the licensee provided the following analysis:

This amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

An increase in fuel enrichment will not by itself affect the mixture of fission product nuclides. A change in fuel cycle design which makes use of an increased enrichment may result in fuel burnup consisting of a somewhat different mixture of nuclides. The effect of this instance is insignificant because:

(a) The isotopic mixture of the irradiated assembly is relatively insensitive to the assembly's initial enrichment.

(b) Most accident doses are such a small fraction of 10 CFR Part 100 limits, a large margin exists before any change becomes significant.

(c) The change in Pu content which would result from an increase in burnup would produce more of some fission product nuclides and less of other nuclides. Small increases in some doses are offset by reductions in other doses. The radiological consequences of accidents are not significantly changed.

With respect to the second criterion the licensee stated:

This amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

As indicated in the enclosed analyses, an unplanned criticality event will not occur as Keff will not exceed 0.95 with the maximum allowable enriched fuel in pool A, and flooded with unborated water, or the dry storage racks immersed in a water mist of 7.5% moderator density. Criticality is possible for a mist environment only if the higher enriched fuel occupies all of the locations in the dry storage racks including those which are required to be vacant. To prevent [this] occurrence, FPC commits to establish controls to preclude improper fuel storage.

In regards to the third criterion the licensee provides the following statement:

This amendment will not involve a significant reduction in a margin of safety.

While the increased enrichment in pool A and the dry storage racks may lessen the margin to criticality this reduction is not significant because the overall safety margin is within NRC criteria of Keff [less than] 0.95 (NRC Standard Review Plan, Section 9.2.1).

Therefore, this amendment request satisfies the criteria specified in 10 CFR 50.92 for amendments which do not involve a significant hazards consideration.

The staff has reviewed the analysis provided by the licensee in support of a no significant hazards consideration determination. The staff agrees with the licensee's analysis and believes that the licensee has met the criteria for such a determination. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

*Local Public Document Room location:* Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

*Attorney for licensee:* R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P. O. Box 14042, St. Petersburg, Florida 33733

*NRC Project Director:* Herbert N. Berkow

**General Public Utilities Nuclear Corporation, Docket No. 50-320, Three Mile Island Nuclear Station, Unit No. 2, (TMI-2), Dauphin County, Pennsylvania**

*Date of amendment request:* December 4, 1987

*Description of amendment request:* The proposed amendment would revise TMI-2 Operating License No. DPR-73 by modifying Appendix A Technical Specifications Sections 1.13 - Definitions, and 3 - Limiting Conditions for Operation. The proposed amendment would revise the specifications related to fire protection systems at TMI-2. The proposed changes would align license requirements of fire protection systems consistent with the current, as well as future plant conditions through the remainder of the current cleanup operations.

A revised definition of "Fire Suppression Water System", Section 1.13, is proposed. The definition describes the components of the fire suppression water system. The revised definition deletes the terms "sprinkler" and "spray system riser" to be consistent with the revised requirements of Technical Specification 3.7.10.2 Deluge/Sprinkler Systems.

The licensee proposes to revise Technical Specification 3.7.10.1, Fire Suppression Water System, by eliminating one of four separate and redundant high pressure fire pumps and one of four separate water supplies supplying water to the pumps. The licensee further proposes to delete the requirement to maintain operability of the Unit 2 River Water Intake Diesel Fire Pump and the Unit 2 River Water

Intake Structure. The licensee also proposes to remove the terms "sprinkler" and "spray system user" to be consistent with the revised requirements of Technical Specification 3.7.10.2 - Deluge/Sprinkler Systems.

Technical Specification 3.7.10.2 - Deluge/Sprinkler Systems, would be deleted by the licensee. The current Technical Specifications require deluge and/or sprinkler systems in a number of areas in the TMI-2 ventilation system. The purpose of this system is for suppression of charcoal filter fires in the ventilation system. The licensee has determined that the ventilation system is no longer necessary to maintain the safe shutdown condition of the plant or to maintain off-site doses to less than 10 CFR Part 100 limits.

Section 3.7.10.3 - Halon System, requires that the Halon systems in the Cable and Transformer Rooms and four zones of the air intake tunnel be operable. The licensee proposes to delete this system. The licensee has determined that these areas, protected by the Halon system and located outside the Reactor Building, would not affect the safe shutdown condition of the plant nor would it result in an off-site release greater than 10 CFR Part 100 limits.

Technical Specifications 3.7.11 - Penetration Fire Barriers, would be deleted by the licensee. The current Technical Specification requires that all penetration fire barriers protecting safety related areas be functional. The November 17, 1987 revised Fire Protection Program Evaluation establishes the Reactor Building as the only fire area. The licensee has determined that maintenance of the penetration fire barriers are not necessary to ensure the safe shutdown of the facility.

The licensee proposes to modify the Bases Section 3/4.3.3.8 and 3/4.3.3.9 - Fire Detection Instrumentation, by making reference to the TMI-2 Fire Protection Program Evaluation with regard to adequate fire warning capability, delete reference to safety related equipment and permit remote surveillance techniques in lieu of fire patrols when fire detection instrumentation is inoperative.

Bases Section 3/4.7.10 - Fire Suppression Systems, would be similarly modified making reference to the TMI-2 Fire Protection Program Evaluation with regard to adequate fire suppression capability, and delete reference to the fire suppression system capability to minimize potential damage to safety related equipment. The Basis currently refers to four main fire pumps in the fire suppression system. Consistent with the changes proposed in Section 3.7.10.1, the Basis would be changed to refer to three main fire pumps. The licensee also proposes to delete the reference to the necessity for immediate corrective measures should the fire suppression water system become inoperative. The licensee proposes instead to state that the inoperability of the system would not affect the capability to maintain the safe shutdown condition of the plant nor the capability to prevent off-site releases greater than 10 CFR Part 100 limits. The licensee would retain the statement that if portions of the fire suppression system are inoperable, alternate backup fire fighting equipment would be made available in affected areas until the affected equipment could be restored to service.

The licensee proposes to delete Basis Section 3/4.7.11 Penetration Fire Barriers, consistent with the request to delete Section 3.7.11 - Penetration Fire Barriers.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

TMI-2 is currently in a post-accident, cold shutdown, long-term cleanup mode, with sufficient decay heat removal assured by direct heat loss from the reactor coolant system to the reactor building atmosphere. The licensee is presently engaged in defueling the damaged reactor, decontaminating the facility and readying the plant for long-term storage. As of the end of December 1988, approximately 70 percent of the fuel contained in the reactor vessel has been removed. Defueling the facility has progressed to the regions below the location of the original core volume. Defueling activities within the reactor building will be completed by fall of 1989. The staff has determined in previous license amendments, that the potential accidents analyzed for TMI-2 in the current cleanup mode are bounded in scope and severity by the range of accidents originally analyzed in the facility FSAR. The changes proposed by the licensee are changes to the Appendix A Technical Specifications reducing the fire protection requirements necessary to assure the safe shutdown of the facility. Since the facility is in a safe shutdown configuration, the reactor system is not pressurized and the core is partially defueled the licensee asserts that a reduction in fire protection measures is warranted and that off-site doses, even in the event of a fire, would be less than 10 CFR Part 100 limits.

The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated. The proposed changes to the Technical Specifications are based on a safety analysis contained in the November 17, 1987 Fire Protection Plan Evaluation (FPPE) submitted by the licensee in support of the proposed changes. The FPPE concludes that maintenance of only one fire area, the TMI-2 Reactor Building, is justified and that this assumption will not affect either the capability to maintain the monitored safe shutdown condition of the plant nor result in off-site doses greater than 10 CFR Part 100 limits.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because no new modes of operation or new equipment are being introduced. The proposed changes do not involve a significant reduction in a margin of safety since the changes are consistent with the results of the recent Fire Protection Program Evaluation and do not affect the capability of the licensee to maintain the safe shutdown condition of the facility nor result in the possibility of off-site doses greater than 10 CFR Part 100 limits. The proposed changes will still require fire detection and suppression capability in the Reactor Building.

Based on the above considerations, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

*Local Public Document Room location:* State Library of Pennsylvania Government Publications Section, Education Building, Walnut Street and Commonwealth Avenue, Harrisburg, Pennsylvania 17126.

*Attorney for licensee:* Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* John F. Stolz

**Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana**

*Date of amendment request:* December 23, 1988

*Description of amendment request:* The proposed amendment would change the Technical Specifications to show a new location for one of the backup seismic monitors.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The seismic monitor being moved is currently in a location to detect peak accelerations on the reactor coolant system (RCS) piping by being attached to a pipe directly connected to the RCS piping. The location, however, is in a harsh environment subject to vibrations from a reactor coolant pump. The environment and vibrations continually damage the monitor rendering it useless. The new location will also place the monitor on a connected pipe to the RCS and should provide comparable information with less chance of unrelated damage. These backup seismic monitors do not influence any accident previously evaluated except possibly for the small added weight of the monitor on the connecting pipe. The licensee has evaluated the effects of the added weight at the new location; the weight does not cause the new seismic stress valves to exceed any limits. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The monitor provides backup information to verify seismic induced stress calculations. It is not powered by external power sources and the weight at the new location should have no effect on the piping. The mounting clamp and monitor meet seismic Category 1 requirements and should not fall during a seismic event and local pipe whip restraints should prevent the monitors from becoming missiles after a postulated pipe break. Therefore, the proposed change will not create the possibility of a new or different kind of accident previously evaluated.

The monitor provides backup recording to verify seismic induced stress calculations. The new location still provides information on the RCS piping and the monitor should have no effect on the new piping location. The current location renders the monitor useless while the new location restores the margin of safety as a backup monitor as originally required. Therefore the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, the staff proposes to determine that the change does not involve a significant hazards consideration.

*Local Public Document Room Location:* University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

*Attorney for licensee:* Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

*NRC Project Director:* Jose A. Calvo

**Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi**

*Date of amendment request:* December 6, 1988, as supplemented December 30, 1988.

*Description of amendment request:* The amendment would change the Technical Specifications (TS) as required to support the Cycle 4 fuel reload. Specific changes would be made in the Bases for Section 2.1, "Safety Limits," the TS and Bases for Section 3/4.2, "Power Distribution Limits," and TS 5.3.1, "Fuel Assemblies." Specifically, the proposed Technical Specification changes address the following:

(a) The addition of one MAPLHGR curve for the new 8x8 fuel type.

(b) The revision of the MAPLHGR curve for 8x8 fuel during Single LOOP Operation (SLO).

(c) The revision of flow dependent thermal limits, $MAPFAC_p$, and $MCPR_f$, based on all ANF core for Cycle 4.

(d) The revision of power dependent MCPR, $MCPR_p$, based on analyses specific to an all ANF core for Cycle 4.

(e) Changes associated with the addition of four 9x9-5 Lead Test Assemblies (LTAs) introduced in Cycle 4. The applicable MAPLHGR and LHGR curves are added.

(f) The revision of design description of the fuel assemblies consistent with Item (e) above (administrative).

(g) Administrative changes (editorial).

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations in its request for a license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below.

1. a) This change introduces one MAPLHGR limit for the new 8x8 fuel. This change only introduces a new MAPLHGR limit and does not affect the precursors to any event previously evaluated. Therefore, this change does not involve a significant increase in the probability of any event previously evaluated.

The peak clad temperature (PCT) for the new 8x8 fuel was calculated based on the same bounding MAPLHGR limit which was used in the analyses for Cycles 2 and 3. [The MAPLHGR operating limits in the Technical Specifications for Cycles 2, 3 and 4 are bounded by the MAPLHGR limit used in LOCA analysis.] Small variations in PCT, compared to the bounding PCT calculated in Cycle 2, are observed as a result of minor fuel design differences (e.g., lattice radial enrichment, and therefore, power distribution). The maximum increase in PCT relative to Cycle 2 is 11 degrees F at 20 GWd/MTU. This increase is negligible compared to the calculated PCT which is more than 500 degrees below the 10 CFR 50.46 limit of 2200 degrees F. Therefore, the proposed change does not involve a significant increase in the consequences of any event previously evaluated.

b) This change consists of a revision to the SLO MAPLHGR limit for the 8x8 fuel types. It only redefines the SLO MAPLHGR limit and does not affect the precursors to any event previously evaluated. Therefore, this change does not involve a significant increase in the probability of any event previously evaluated.

The revised SLO MAPLHGR limit conservatively bounds, during Cycle 4, the individual MAPLHGR limits for the 8x8 fuel types. Therefore, this change does not involve a significant increase in the consequences of any event previously evaluated.

c) This change consists of revisions to the $MCPR_f$ and $MAPFAC_f$ limits. The revised limits are based on ANF's methodology, are defined for specific modes of operation and do not take credit for the core flow limiter. These changes only redefine the flow dependent thermal limits and do not affect the precursors to any event evaluated previously. Therefore, these changes do not involve a significant increase in the probability of any event evaluated previously.

As a result of this change, both reduction and increase in the Cycle 3 limits are observed. However, the revised $MCPR_f$ and $MAPFAC_f$ operating limits were constructed in a conservative manner. The limiting flow runout event will not cause the plant to exceed the MCPR safety limit or the LHGR 120% overpower line even with the plant initially at the revised operating limits. Therefore, the proposed changes do not involve a significant increase in the consequences of any event previously evaluated.

d) This change consists of a revision to the $MCPR_p$ limit. The revised $MCPR_p$ limit is based on ANF's methodology applied to a full ANF core. The limit is lower than the Cycle 3 limit above 40% of rated power up to, but not including, 100% power. Below 40% of rated power and at 100% power, the limit is unchanged. This change only redefines the $MCPR_p$ limit and does not affect the precursors to any event previously evaluated. Therefore, this change does not involve a significant increase in the probability of any event previously evaluated. Cycle 4 analysis demonstrated that the limiting events will result in a CPR above the $MCPR_p$ operating limit. Therefore, the proposed change does not involve a significant increase in the consequences of any event previously evaluated.

e) This change addresses the introduction of four (4) LTAs into the core for Cycle 4 operation. The thermal, mechanical and neutronic performance of the LTAs has been determined for the limiting events evaluated by ANF for Cycle 4. The LTAs have been determined for the limiting events evaluated by ANF for Cycle 4. The LTAs have been shown to be compatible with the co-resident 8x8 fuel assemblies. Therefore, introduction of the LTAs during Cycle 4 does not affect the precursors to any event evaluated previously for 8x8 fuel. Therefore, this change does not involve a significant increase in the probability of any event previously evaluated for 8x8 fuel. The Cycle 4 reload analysis shows that the LTA performance is bounded by the performance of the co-resident 8x8 fuel. This is ensured by the LTAs being placed in non-limiting core locations. Therefore, the introduction of LTAs does not involve a significant increase in the consequences of any event previously evaluated.

f) This change is administrative. Therefore, it does not involve a significant increase in the probability or consequences of an accident previously evaluated.

g) These changes are administrative. Therefore, they do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall, the proposed changes define parameters determined conservatively and consistent with the fuel which will be resident in the core during Cycle 4. They do not affect the precursors to any accident previously evaluated. These changes, therefore, do not involve a significant increase in the probability or consequence of any accident previously evaluated.

2. The new 8x8 fuel type is of a design similar to the fuel present in the core. It has been determined by ANF that the 9x9x-5 LTA is compatible with the 8x8 fuel and will not create the possibility of a new or different kind of accident. The proposed changes do not involve any new modes of operation, any plant modifications or any changes to setpoints. Therefore, the proposed changes do not result in the creation of any new precursors to any accident. They only introduce new and revised MAPLHGR, LHGR and off-rated power and flow limits. These limits have been determined using methodologies similar to those used for previous cycles. The administrative changes have no effect on any accidents. Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously evaluated.

3. a) This change introduces one MAPLHGR limit for the new 8x8 fuel. The peak clad temperature (PCT) for the new 8x8 fuel was calculated based on the same bounding MAPLHGR limit which was used in the analyses for Cycles 2 and 3. Small variations in PCT, compared to the bounding PCT calculated in Cycle 2 are observed as a result of minor fuel design differences (e.g., lattice radial enrichment, and therefore, power distribution). The maximum increase in PCT relative to Cycle 2 is 11 degrees F at 20 GWd/MTU. The available margin to the 10CFR50.46 limit of 2200 degrees F at this exposure is greater than 500 degrees F. Therefore, the introduction of the new MAPLHGR limit does not involve a significant reduction in the margin of safety.

b) This change consists of a revision to the SLO MAPLHGR limit for 8x8 fuel. The revised SLO MAPLHGR curve conservatively bounds, during Cycle 4, the individual MAPLHGR limits for all 8x8 fuel types. The method used to calculate off-rated MAPLHGR limits in Cycle 3 is maintained for Cycle 4. Therefore, revision of the SLO MAPLHGR limit does not involve a significant reduction in the margin of safety.

c) This change consists of revisions to the $MCPR_f$ and $MAPFAC_f$ operating limits. The revised limits are based on ANF's methodology, are defined for specific modes of operation and do not take credit for the use of the core flow limiter. The revised $MCPR_f$ limit is based on a conservative bound of the maximum achievable core flow (110% of rated) for the limiting flow runout event. The Cycle 3 limits are based on maximum core flows of 102.5 and 107% of rated. The revised $MCPR_f$ limits are in general lower than the Cycle 3 $MCPR_f$ operating limits. However, the ANF Cycle 4-specific safety analyses show an adequate margin to the safety limit. The $MCPR_f$ limit consists of two curves corresponding to Non-Loop Manual and Loop Manual modes of operation. For Non-Loop Manual modes, the limiting flow runout event consists of a two loop runout whereas for Loop Manual mode, the limiting event consists of a one loop runout. Therefore, the limiting consequences (flow increase and the associated delta CPR) in the Loop Manual mode are smaller than in the Non-Loop Manual modes, resulting in an added CPR margin for the LOOP Manual mode.

The $MCPR_f$ operating limit is constructed based on a number of conservative assumptions: 1) The increase in flow rate for both one and two loop runout events are [sic] conservative (see report NESDQ-88-003), 2) the ANF analysis assumes a conservative rod-line for the limiting flow runout event, and 3) the $MCPR_f$ limit includes an added conservatism to address performance variations in subsequent cycles (NESDQ-88-003 and ANF-88-149, Figure 5.1). With the plant initially at the revised $MCPR_f$ operating limit, the limiting flow run-out event, for both Loop Manual and Non-Loop Manual operations, will result in a final CPR above the MCPR safety limit. This ensures that an adequate margin of safety is available.

The basis for determining the $MAPFAC_f$ limits is similar to that used in determining the $MCPR_f$ limits. The $MAPFAC_f$ limit consists of two curves corresponding to Non-Loop Manual and Loop Manual modes of operation. The change in $MAPFAC_f$ under the more restrictive Loop Manual mode (one loop runout) is smaller than under the Non-Loop Manual modes (two loop runout). The conservatisms associated with the assumed flow increases and the analysis rod-line described above for the $MCPR_f$ related analyses are applied to the $MAPFAC_f$ analyses as well. With the plant initially on the revised $MAPFAC_f$ limit, the limiting flow runout event, for both Loop Manual and Non-Loop Manual operations, will result in a final $MAPFAC_f$ below the 120% overpower line. This assures an adequate margin of safety for this event.

Therefore, the proposed changes in the $MCPR_f$ and $MAPFAC_f$ limits do not involve a significant reduction in the margin of safety.

d) This change consists of a revision to the $MCPR_p$ limit. The revised $MCPR_p$ limit is based on ANF's methodology applied for a full ANF core. The limit is lower than the Cycle 3 limit above 40% of rated power up to, but not including, 100% power. Below 40% of rated power and at 100% power, the limit is unchanged. Cycle 4 analysis demonstrated that even with the plant initially on the revised $MCPR_p$ operating limit, the analyzed limiting core-wide transients and local events will result in a CPR above the MCPR safety limit. Therefore, the proposed change in the $MCPR_p$ limit does not involve a significant reduction in the margin of safety.

e) This change addresses the introduction of four (4) LTAs into the core for Cycle 4 operation. The thermal and mechanical performance of the LTAs for the limiting events analyzed by ANF for Cycle 4 is bounded by the performance of the 8x8 fuel. MAPLHGR and LHGR curves specific to the 9x9-5 LTA have been developed. These curves were developed using the same methods as were used for the 8x8 fuel. Comparable margins to the PCT and mechanical design limits were shown to be available for the LTAs. Additional margin is introduced by placing the LTAs in non-limiting core locations. Therefore, the introduction of four (4) LTAs does not involve a significant reduction in the margin of safety.

f) This change is administrative. Therefore, it does not involve a significant reduction in the margin of safety.

g) These changes are administrative. Therefore, they do not involve a significant reduction in the margin of safety.

Therefore, these changes ((a) through (g)) do not involve a significant reduction in the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

*NRC Acting Project Director:* Edward A. Reeves

**Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi**

*Date of amendment request:* December 16, 1988

*Description of amendment request:* The amendment would change the Technical Specifications (TS) Section 6.0, "Administrative Controls," by:

1. Replacing references to specific staff positions identified in the composition of the Plant Safety Review Committee (PSRC) and the Safety Review Committee (SRC) with descriptions and qualifications of required personnel.

2. Adding a footnote to TS Table 6.2.2-1, "Minimum Shift Crew Composition," to allow a licensed senior reactor operator (SRO) on the crew to serve in a dual capacity as SRO and shift technical advisor (STA).

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations in its request for a license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below.

*Change 1*

No significant increase in the probability or consequences of an accident previously evaluated results from this change.

a. The replacement of specific position titles with general titles and requirements is administrative. The proposed change does not affect assumptions contained in plant safety analyses, the physical design or operation of the plant, nor are TS that preserve safety analysis assumptions affected. The same level of expertise applied to the PSRC and SRC review function will exist with the approval of the proposed change. There will be no loss in PSRC or SRC effectiveness due to the proposed change. The positions which are important to safe operation of the facility will continue to be specified in the TS. The NRC will continue to be informed of the PSRC/SRC composition through the UFSAR.

b. Therefore, there is no increase in the probability or consequences of previously analyzed accidents due to the proposed change.

2. This change would not create the possibility of a new or different kind of accident from any previously evaluated.

a. The proposed change is administrative. No physical alterations of plant configuration or change to setpoints or operating parameters are proposed. The level of position qualifications are not reduced in the TS. The same level and quality of PSRC and SRC review is maintained and unaltered by this proposed change.

b. Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created.

3. This change would not involve a significant reduction in the margin of safety.

a. The change being proposed is administrative and does not relate to or modify the safety margins defined in and maintained by the TS. The change does not alter SERI's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plant. No position qualifications are being reduced in the TS. The level and quality of PSRC and SRC review is maintained since there will be no change in the collective talents on the PSRC and SRC the scope of independent review conducted by the PSRC and SRC will be unchanged.

b. Therefore, this proposed change will not involve a significant reduction in the margin of safety.

Change 2

1. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

a. The objective of the STA requirement is to improve the ability of an operating shift to recognize, diagnose and effectively deal with plant transients or other abnormal conditions. The analysis of accidents such as Rod Withdrawal Error, Rod Drop Accidents, etc., that concern operator error, do not take credit for the STA as decreasing the probability of occurrence of these accidents. The proposed change simply provides flexibility in meeting an administrative requirement and does not involve any modifications or change in the plant.

b. With the proposed change, GGNS operating shift personnel will continue to have the expertise to recognize and effectively deal with plant transients or other abnormal events. The analysis of accidents such as Rod Withdrawal Error, Rod Drop Accidents, etc., that concern operator error, do not take credit for the STA as mitigating the consequences of these accidents. Rather, these accidents are mitigated by plant design (i.e. Rod Pattern Control System, Shutdown Margin, Core Monitoring Instrumentation, etc.). The proposed change is administrative. The expertise of the operating shift is not jeopardized and the radiological consequences of any evaluated accident remain unchanged.

c. Therefore, there is no increase in the probability or consequences of previously analyzed accidents due to the proposed change.

2. This change would not create the possibility of a new or different kind of accident from any previously evaluated.

a. The proposed change does not involve any modifications or changes in the plant. This is an administrative change in which the ability of the operating shift is not jeopardized. Since the STA has no operational responsibilities or duties on shift other than those associated with plant transients and accidents, combining the Shift Superintendent or the second SRO function with the STA will not introduce any new opportunity for operator error to occur.

b. Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created.

3. This change would not involve a significant reduction in the margin of safety

a. The proposed change will not have any effect on safety limits, boundary performance or system performance. The STA or SRO/STA will continue to monitor thermal limits, thermal power, core flow, reactor pressure and level to ensure safety limits are not exceeded in normal or abnormal situations.

b. The functions of the STA will continue to be carried out by an individual on shift. That individual on shift will continue to have the knowledge, training, experience, and expertise required to assess, analyze, and evaluate plant transients and accidents. There will be no detraction from the operating duties of the SRO or STA.

c. The proposed change still would meet the current NRC position on training and qualification of STAs. In addition, NRC shift staffing requirements would still be met with the proposed change.

d. Therefore, this proposed change will not involve a reduction in the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and,

therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposed to determine that the requested amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005

*NRC Project Director:* Elinor G. Adensam

**Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi**

*Date of amendment request:* January 26, 1989

*Description of amendment request:* The amendment would provide one-time exceptions to TS 3.0.4 for certain Technical Specifications (TS) during the third refueling outage while the plant is in Operational Condition 4 (cold shutdown) and Operational Condition 5 (refueling). For these TS, the exceptions to TS 3.0.4 would allow entry into the specified operational conditions without meeting limiting conditions for operation provided the requirements of the associated action statements are met. The use of these exceptions will reduce the refueling outage time. The specific TS for which exceptions to TS 3.0.4 are requested are:

a. Residual Heat Removal - Cold Shutdown, 3.4.9.2, Actions a and - page 3/4 4-27

b. ECCS - Shutdown, 3.5.2, Action a - page 3/4 5-6

c. Suppression Pool, 3.5.3, Action c - page 3/4 5-9

d. Containment and Drywell Isolation Valves, 3.6.4, Actions b and c - page 3/4 6-28

e. Secondary Containment Automatic Isolation Dampers/Valves, 3.6.6.2, Actions b and c - page 3/4 6-49

f. Standby Service Water System, 3.7.1.1, Actions b, c and d - pages 3/4 7-1 and 3/4 7-2

g. Ultimate Heat Sink, 3.7.1.3, Action a - page 3/4 7-4

h. Control Room Emergency Filtration System, 3.7.2, Action b.1 - page 3/4 7-5

i. Residual Heat Removal and Coolant Circulation - Low Water, 3.9.11.2, Actions a and b - page 3/4 9-19

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations in its request for a license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below.

1. The proposed changes are intended to provide operational flexibility during the upcoming refueling outage while ensuring core decay heat removal capability, ECCS water injection requirements and primary and secondary containment capability. SERI has developed and implemented a management philosophy for effective control of potential vessel draining and decay heat removal during plant outages. This philosophy has been implemented by policy as a Technical Specification Position Statement which requires:

a) At least one ECCS and one Fuel Pool Cooling subsystem functional at all time.

b) At least one shutdown cooling subsystem of RHR remain functional except for periods of required maintenance or testing.

c) The emergency diesel/generator associated with the one required ECCS, Fuel Pool Cooling, and Shutdown Cooling subsystem be functional (and OPERABLE when possible).

d) Any alternate shutdown cooling subsystem must be demonstrated to be able to remove reactor decay heat load existing at the time the system is required.

In addition, it is SERI's outage philosophy to minimize the time in TS action statements associated with the above systems such that these action statements are only entered for required maintenance, testing, inspections, and modifications. Any exceptions to the above must receive prior Plant Safety Review Committee review and approval.

2. This policy has been successfully executed and demonstrated effective in previous refueling outages.

3. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. SERI has evaluated UFSAR Chapter 15 events which are considered to be applicable during OPERATIONAL CONDITIONs 4 and 5. These events include a dropped fuel bundle and inadvertent criticality. The proposed Specification 3.0.4 exceptions cannot affect the probability of occurrence of any of these events. The proposed 3.0.4 exceptions would have no effect on fuel handling operations in the containment or in the spent fuel pool because fuel handling procedures and methods remain unchanged. The proposed changes have no effect on control rod interlocks or fuel loading errors and thus do not affect the probability of occurrence of an inadvertent criticality. The proposed changes will allow the following evolutions to occur during the third refueling outage while in the action statements of the affected TS:

a. Tensioning and detensioning the reactor vessel head.

b. Lowering the reactor cavity water level to less than 22 feet 8 inches above the reactor pressure vessel flange.

c. Performance core alternations and handling irradiated fuel while relying on the provisions of ACTION b and c of TS 3.6.4 and 3.6.6.2.

4. The above listed evolutions will be performed while in the action statements associated with ECCS operating and shutdown requirements, provisions concerning the number of RHR shutdown cooling loops required OPERABLE, provisions concerning primary containment, drywell and secondary containment capability and control room emergency filtration system. Without the requested TS 3.0.4 exceptions, the required systems would have to be made operable just to perform the above evolutions and then they may be made inoperable again for maintenance and testing purposes. The evolution of making systems operable just to change operational conditions or other specified conditions represents significant impact on the refueling outage. With the proposed changes the outage length can be significantly decreased with no significant impact to overall plant safety.

5. The proposed changes do not affect the consequences of an accident previously evaluated. SERI policy looks at the overall outage plan and attempts to optimize testing and maintenance periods on ECCS and decay heat removal systems in order to ensure optimum availability while at the same time accomplishing required maintenance and testing activities.

6. The proposed changes involving RHR shutdown cooling affect Specifications 3.4.9.2 ACTIONs a and b, 3.7.1.1 ACTIONs b and d, 3.7.1.3 ACTION a, and 3.9.11.2. The action statements of Specifications 3.4.9.2 and 3.9.11.2 contain provisions to establish alternate methods of decay heat removal, when necessary, with RHR shutdown cooling loops inoperable. These alternate methods of decay heat removal are procedurally prescribed prior to entering an outage based on available equipment and planned outage activities. Since decay heat removal is provided for in the action statements of the affected specifications, entry into the OPERATIONAL CONDITIONs with less than the required number of RHR Shutdown Cooling Loops available does not involve a significant increase in the probability or consequences of an accident previously evaluated.

7. The proposed change to Specification 3.7.1.1 ACTIONs b and and d and 3.7.1.3

ACTION a affect the SSW subsystems and ultimate heat sink that support the RHR shutdown cooling loops. With an SSW subsystem inoperable, its associated RHR shutdown cooling loop is also required by Technical Specifications to be declared inoperable. Changing OPERATIONAL CONDITIONs or other specified conditions with this SSW subsystem and associated RHR shutdown cooling loop inoperable represents no significant increase in the probability or consequences of an accident previously evaluated.

8. The proposed changes to Specification 3.5.2 and 3.7.1.1 ACTION c will allow operational condition changes with one ECCS subsystem/system OPERABLE. Since only OPERATIONAL CONDITIONs 4 and 5* are affected, present TS indicate that one ECCS subsystem/system is sufficient for water makeup requirements for the four hour time allowance of ACTION c of Specification 3.5.2. The proposed change to ACTION c of Specification 3.7.1.1 is similar to that for ACTIONs b and d such that when equipment is out of service, a support system such as SSW is not required to be OPERABLE for that ECCS function. Since ECCS makeup capability is provided while in ACTION a of Specification 3.5.2, the proposed change does not involve a significant increase in the probability of consequences of an accident previously evaluated.

9. The proposed change to 3.5.3 ACTION c will allow operation of the Alternate Decay Heat Removal System (ADHRS) which requires declaring inoperable a division of suppression pool water level instrumentation. TS 3.0.4 presently restricts changing operational conditions while relying on the provisions of that action. ADHRS operation causes the inoperability of one division of suppression pool level instrumentation which causes entry into ACTION c of TS 3.5.3. This action requires that suppression pool level be verified once per 12 hours by an alternate indicator. Operational condition or specified condition changes cannot be made while relying on the provisions of the ACTION even though suppression pool level can be verified by an alternate indicator. Since an alternate means of verifying suppression pool level is provided by ACTION c of Specification 3.5.3, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

10. The proposed changes involving drywell, primary containment and secondary containment isolation valves affect Specification 3.6.4 ACTIONs b and c and Specification 3.6.6.2 ACTIONs b and c. The action statements of those specifications provide provisions for isolating affected penetrations when one or more of the associated isolation valves or dampers are inoperable. The action involves isolating the affected penetration by use of at least one deactivated automatic valve secured in the isolated position or by use of at least one closed manual valve or blind flange such that the safety function of the valve or damper is accomplished. Because the affected penetrations are isolated in accordance with the specified actions, changing operational or other specified conditions while relying on the provisions of the action does not involve a significant increase in the probability or consequences of an accident previously evaluated.

11. The proposed change involving the control room emergency filtration system affects Specification 3.7.2 ACTION b.1. The action statement of that specification provides provisions for OPERATIONAL CONDITIONs 4, 5 and "*" when one of the two required control room emergency filtration system subsystems are inoperable. The action requires restoration of the inoperable subsystem within seven days or initiate and maintain operation of the OPERABLE subsystem in the isolation mode of operation. Since emergency filtration capability is provided by the OPERABLE subsystem, changing operational conditions or other specified conditions with less than the required number of control room emergency filtration subsystems does not involve a significant increase in the probability or consequences of an accident.

12. The proposed change does not increase the possibility of a new or different kind of accident from any previously analyzed. The proposed changes do not increase the amount of time ECCS, RHR shutdown cooling loops or control room emergency filtration subsystems are unavailable nor do the changes reduce the drywell, containment or secondary containment isolation capability. The proposed changes do not increase the potential for draining the reactor vessel. Since the above safety systems are maintained, there is no possibility of a new or different kind of accident from any previously analyzed. The proposed changes are intended to increase outage flexibility while maintaining necessary levels of plant safety.

13. The proposed change does not involve a significant reduction in a margin of safety. The proposed Specification 3.0.4 exceptions will still ensure that core decay heat removal, ECCS makeup capabilities, control room emergency filtration capability, and drywell, containment and secondary containment capability are available when required during the refueling outage. In addition to Technical Specification action requirements, SERI is to maintain at least one ECCS system and one Fuel Pool Cooling and Cleanup system functional at all time during the outage. RHR shutdown cooling loops will be functional unless maintenance or testing removes them from service. SERI's outage policy will minimize time in the action statements as much as possible. Since essential safety systems are available as necessary during the outage, the change does not involve a significant reduction in a margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis for operational condition 4 and 5 only. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

*NRC Project Director:* Edward A. Reeves

**Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut**

*Date of amendment request:* October 14, 1986, July 21, 1987 and January 12, 1989.

*Description of amendment request:* By applications for license amendments dated October 14, 1986, July 21, 1987 and January 12, 1989, Northeast Nuclear Energy Company (the licensee) requested changes to the Technical Specifications (TS) for Millstone Unit 2 to address recommendations of Generic Letter 83-37. The proposed change to the TS would incorporate Limiting Conditions for Operation (LCO) and Surveillance Requirements (SRs) for the Reactor Vessel Coolant Level (RVCL) instrumentation into TS 3/4.3.3.8, "Instrumentation - Accident Monitoring."

*Basis for proposed no significant hazards consideration determination:* The RVCL instrumentation for Millstone Unit 2 is based upon the heated junction thermocouple technology for post-accident determination of reactor pressure vessel water inventory. In our safety evaluations dated April 18, 1985 and August 28, 1986, the NRC staff addressed the adequacy of the RVCL instrumentation for Millstone Unit 2. The need for RVCL instrumentation and associated TS was one of a number of post-TMI initiatives that had been established by the NRC staff. Based upon discussions with the NRC staff, and applications for license amendments dated October 14, 1986 and July 21, 1987, the licensee has submitted revised proposed LCOs and SRs for the RVCL instrumentation in a letter dated January 12, 1989.

The proposed LCO for the RVCL instrumentation would require at least one of the two channels to be operable. In the event that no channel is operable either restore the unoperable channel(s) to operable status in 48 hours or:

1. Prepare and submit a special report to the Commission pursuant to Specification 6.9.2 within 30 days following the event outlining the action

taken, the cause of the inoperability, and the plans and schedule for restoring the system to operable status; and

2. Restore the system to operable status at the next scheduled refueling; and

3. Initiate an alternate method of monitoring the reactor vessel inventory.

The SRs for the RVCL instrumentation includes monthly channel checks (a determination of operability) and calibration of the instrumentation (from the electronic cabinets only) during refueling. The approval of similar, generic, requirements is contained in a letter from Mr. D. Crutchfield, NRC, to Mr. R.W. Wells, Chairman, Combustion Engineering Owners Group, dated October 28, 1986.

On March 6, 1986, the NRC provided guidance in the **Federal Register** (51 FR 7751) concerning examples of amendments that are not likely to involve significant hazards consideration. One example of amendments not likely to involve significant hazards considerations is example (ii) which involves "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." The proposed change to TS 3/4.3.3.8 would incorporate LCOs and SRs for the RVCL instrumentation into the TS. The proposed change to the TS is thus judged to be within the scope of example (ii), above. Accordingly, the Commission proposes to determine that the proposed change to the TS involves no significant hazards considerations.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

*NRC Project Director:* John F. Stolz

**Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of amendment request:* January 6, 1989 as supplemented by letter dated January 20, 1989.

*Description of amendment request:* By application for license amendment dated January 6, 1989 as supplemented by letter dated January 20, 1989, Northeast Nuclear Energy Company, et al. (the licensee), requested changes to Millstone Unit 3 Technical Specification (TS) 4.7.10b, "Snubbers", to allow an approximate two month extension in snubber visual inspections, to allow continued operation until the next refueling outage.

Technical Specification 4.7.10b requires that snubbers on safety-related components and piping be visually inspected at various intervals depending upon snubber failure rate determined by the previous inspection. An increased number of snubber failures would decrease the surveillance intervals from as great as 18 months 27 25% to as little as 31 days 27 25%. The current inspection interval for Millstone Unit 3 is 18 months for all snubbers except for Type PSA-1/2 and PSA-1/4, which have a 12 month interval. During the last round of inspections, the licensee found all snubbers operable which enabled the licensee to increase the inspection interval for the Type PSA-1/2 and PSA-1/4 snubbers to 12 months. The next required inspection interval would end April 30, 1989. The licensee has requested that the surveillance interval be extended to allow snubber inspection during the next refueling outage, which is scheduled to begin on May 20, 1989.

*Basis for proposed no significant hazards consideration determination:*

Title 10 CFR 50.92, "Issuance of amendment", contains standards for evaluating the existence of no significant hazards consideration. In this regard, the proposed change to TS 4.7.b will not:

- Involve a significant increase in the probability or consequences of an accident previously evaluated. The probability of a seismic event is independent of the snubber surveillance program. With regard to consequences of seismic events, it is unlikely that a one time extension of approximately 20% of the snubber inspection interval will appreciably increase the incidence of undetected snubber failure. The inherent seismic-resistance capability of the components and piping provide reasonable assurance of safety during the proposed extended inspection interval.
- Create the possibility of a new or different kind of accident. Safety systems that were designed to be seismic-resistant, will continue to be seismic-resistant with no significant decrease in capability. Thus, no new or different types of accidents will be created as a result of seismic events.
- Involve a significant reduction in a margin of safety. Although there may be small, localized, reductions in safety margins with regard to seismic resistance of safety systems due to undetected snubber failures, the overall reduction in safety margin will not be significant. The proposed change does not affect the consequences of any accident previously analyzed.

Based on the above, the staff proposes to determine that the proposed change to TS 4.7.10.b does not involve a significant hazards consideration.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

*NRC Project Director:* John F. Stolz

**Northern States Power Company, Dockets Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, Goodhue County, Minnesota**

*Date of amendment request:* July 18, 1988.

*Description of amendment request:* The proposed Technical Specification (TS) changes would eliminate requirements dealing with steam generator low water level and low feedwater flow. Specifically, the proposed changes to the TSs, which would become effective after the installation of the digital feedwater control system, are as follows:

1. Specification 2.3.A.3(c) dealing with the reactor trip setpoints of "low steam generator water level - greater than or equal to 15% of the narrow range instrument in coincidence with steam/feedwater mismatch flow - greater than or equal to $1.0 \times 10^6$ lbs/hr" would be deleted.

2. Specification Table TS.3.5-2, item 18 dealing with low feedwater flow reactor trip, would be deleted.

3. Specification Table TS.4.1-1, item 12, Steam Generator Flow Mismatch, would be modified so that surveillance would be performed on steam flow channels only since feedwater flow channels would no longer be used in the protection circuit.

The licensee also proposes to revise the bases to reflect the removal of the low feedwater flow reactor trip.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (51 FR 7751). One of the examples is (ix):

A repair or replacement of a major component or system important to safety, if the following conditions are met:

(1) The repair or replacement process involves practices which have been successfully implemented at least once on similar components or systems elsewhere in the nuclear industry or in other industries, and does not involve a

significant increase in the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident from any accident previously evaluated; and

(2) The repaired or replacement component or system does not result in a significant change in its safety function or a significant reduction in any safety limit (or limiting condition of operation) associated with the component or system.

The replacement feedwater control system that utilizes a median signal selector function has been installed at several other plants where it demonstrated a superior means of feedwater flow control as compared to the existing control systems. This advanced means of controlling feedwater flow eliminates the possibility of flow transient conditions, and therefore the need for a reactor trip initiated by low feedwater flow or low steam generator water level becomes unnecessary. The setpoint parameters associated with the steam generator water level and feedwater flow have not been factored into analyses of any of the previously analyzed accidents. Therefore, the elimination of these reactor trip settings does not involve a significant increase in the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident from any accident previously evaluated. In addition, the proposed changes will in no way alter the safety function of the feedwater control system or result in a significant reduction in any safety limits associated with the feedwater control system. On this basis, the Commission proposes to determine that the requested action does not involve a significant hazards consideration.

*Local Public Document Room location:* Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

*Attorney for licensee:* Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* Theodore R. Quay, Acting.

**Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania**

*Date of application for amendments:* January 26, 1989

*Description of amendment request:* The proposed amendment would modify the Technical Specifications to correct deficiencies in the degraded voltage protection features. The amendment replaces in its entirety an earlier amendment dated September 7, 1988 for which notice of consideration was provided in the **Federal Register** on October 19, 1988 [53 FR 40996]. Accordingly, this notice replaces and supersedes in its entirety the Notice of October 19, 1988. The deficiencies were identified as a result of revised voltage regulation studies. The studies were based in part on the consideration that, under certain offsite power emergency conditions, the voltage provided to the station's offsite power supply transformers could be lower than previously assumed. The study also modeled the plant's power distribution system to a greater level of detail.

The proposed changes are grouped into two categories. The Category A changes address the degraded grid protection relays, and involve providing protective relays on each 4.16kV bus (with revised voltage setpoints) and increasing the time delay for the 4.16kV bus to transfer to an alternate power supply. Category B changes address the Emergency Core Cooling System (ECCS) loading sequence.

The Category A changes involve two independent offsite power sources which are referred to as the start-up sources. The 4160 volt (4.16kV) bus feeder breakers provide the interface between the two offsite power sources and the plant safety-related AC power distribution system. Each of the four 4.16kV buses in each unit can be powered by either of the two offsite power supplies. Each of the 4.16kV buses can also be powered from a safety related diesel generator.

Each startup source to each 4.16kV bus is equipped with an instantaneous undervoltage protective relay. Each relay is presently set to initiate at 90% of nominal voltage on the 4.16kV bus. The purpose of these relays is to ensure that adequate levels of voltage are provided to the motors and control components which are powered from the 480V motor control centers (MCCs) which are fed from the 4.16kV buses. After a 0.1 second internal time delay the degraded voltage protective relays initiate time delay relays which transfer the 4.16kV bus to an alternate supply source if the normal supply source does not recover to the instantaneous relay reset value (currently 93%) in a set period of time. The control circuit logic to the time delay relays distinguishes between an undervoltage condition without a safety injection signal and one concurrent with a safety injection signal. Without a safety injection signal, a time delay relay will initiate the transfer 60 seconds after initiation of the instantaneous relay if the voltage does not recover.

With a safety injection signal, another time delay relay will initiate the transfer six seconds after initiation of the instantaneous relay if the voltage does not recover. The purpose of the six second delay is to minimize the time that safety-related equipment is exposed to the undervoltage condition, yet allow the voltage to recover from the dips caused by acceleration of the large safety-related motors. In either case, if the voltage of the normal supply has not recovered before the time delay relays initiate the transfer, the associated source breaker is tripped and the bus is loaded onto an alternate power supply. The alternate supply for an 4.16kV bus is, in order of preference, the remaining offsite power source, then the emergency diesel generator. The revised voltage regulation study identified that under the scenario of a safety injection signal on one unit while operating with only one of two offsite power sources (permitted for seven days by Limiting Condition for Operation 3.9.B.1), the existing six seconds time delay setting is inadequate. The existing six second timer setting, along with the 0.1 second internal delay, would not allow sufficient acceleration time for the core spray pump motors. Therefore, even after a 6.1 second delay, the core spray pump motors, which are currently started simultaneously, will not be at rated speed (based on design acceleration versus voltage values) thereby not allowing voltage recovery on the 4.16kV buses, and all four 4.16kV bus feeder breakers will trip, thus loading each bus onto its associated diesel generator. This would represent a reduction in defense in depth since it is desirable, if offsite power is available, to supply these loads from the offsite power supply without reliance on the backup diesel generators. The licensee has identified two categories of changes to address this concern.

The Category A changes deal with the offsite power source and include the following: (1) Revise Technical Specification Table 3.2.B on page 71a to designate the presence of undervoltage protective relays (two per 4.16kV bus) which actuate under LOCA conditions and set at "89% of rated voltage 27 0.3% of setting (3702 volts 27 11 volts) with a "0.9 - 1.1 second internal time delay" and undervoltage protective relays (two per 4.16kV bus) which actuate under non-LOCA conditions and are set at "98% of rated voltage 27 0.3% of setting (4077 volts 27 12 volts)" with a "0.9 - 1.1 second internal time delay" instead of

"90% (+/-2%) of rated voltage," and replace the "(ITE)" in the trip function column with "(27N)"; (2) Revise Table 3.2.B on page 71a to designate the trip level setting for the LOCA time delay relays as "9 second 27 7% (27 0.6 sec.) time delay" instead of "6 second (+/-5%) time delay." Express the tolerance of the "non-LOCA" relay in terms of seconds (27 5% as 27 3 sec.); (3) Revises Bases section 3.2 on page 93a to reflect the presence of separate relays for LOCA and non-LOCA conditions, with the LOCA relay set at 89% and the non-LOCA relay set at 98%.

The Category B changes deal with revising the scheme for the sequential loading of the residual heat removal (RHR) and the core spray (CS) pumps. The four CS pumps and the four RHR pumps of the Emergency Core Cooling System (ECCS) are powered from the 4.16kV buses. In the event of a LOCA with offsite power available, the RHR and CS pumps are loaded sequentially onto the 4.16kV buses to preclude severe voltage transients from the simultaneous starting of the pumps. The present loading sequence for the RHR and CS pumps in the event of the safety injection signal with offsite power available results in voltage dips on the 4.16kV and 480V buses which are unacceptable in consideration of the degraded grid protective relay settings due to core spray pump motor acceleration time. Therefore, the licensee proposes a revised loading sequence for a safety injection signal with offsite power available as follows: (1) Revise Table 3.2.B on page 67 to designate the initiation setpoint for the A and C core spray pumps to be "13 sec. +/-7% of setting" and the initiation setpoint for the B and D core spray pumps to be "23 sec. +/-7% of setting"; (2) Revise Table 3.2.B on page 67 to designate the initiation setpoint for the A and B LPCI pumps to be "2 sec. +/-7% of setting" and the initiation setpoint for the C and D LPCI pumps to be "8 sec. +/-7% of setting"; (3) Revise Table 3.2.B on page 67 of the Unit 3 Technical Specifications only to delete the asterisk next to the ADS Bypass Timer and the footnote which reads "Effective when modification association with this amendment is complete."

In addition to the proposed ECCS loading sequence, the licensee will further improve the voltage regulation of the 480V load centers during a motor starting transient by a combination of plant modifications which revise the load shedding or sequencing of the emergency service water pumps, the emergency cooling water pump, the RHR compartment coolers, the cooling towers and the diesel generator vent supply fans. The licensee plans to perform these changes pursuant to 10 CFR 50.59 since none involves an unreviewed safety question or a change to the Technical Specifications. The Appendix K (ECCS Evaluation Models) analysis was used to determine bounding allowable starting times for the RHR and CS pumps. For change Request (1), the licensee concluded that the proposed increases in the core spray timer settings are within the Appendix K analysis. Success of the core spray system requires two factors: (1) pump ready for rated flow and (2) injection valve open to permit full flow. There are two conditions required to support worst case valve opening; reactor pressure is at the low end of its low pressure permissive (400-500 psig) and power is available to the valve operator. Under the limiting scenario, the low pressure permissive occurs 47 seconds following occurrence of the LOCA. Power to the injection valves is not interrupted in this scenario and the valve stroke time is 12 seconds. The earliest that the injection valve can be opened, therefore, is 59 seconds, and the pumps must be ready for full flow prior to this time. The series of events contribution to the establishment of the pumps ready for rated flow are the sensor times for detection of the LOCA, the time for power to be available at the emergency bus, the time for power to be available to the pump motor and pump motor acceleration time. As stated previously, an assumption of the current Appendix K analysis of record is that the time available to start and accelerate the CS pumps from the offsite sources is 59 seconds. Taking into account the above equipment operational time requirements, the CS timer setting must be less than 47 seconds. Thus, the proposed 13 and 23 second timer settings are within the analyzed condition.

For Change Request (2), the licensee has similarly concluded that the proposed increases in RHR pump timer settings are in accordance with the Appendix K analysis. Success of the low pressure coolant injection (LPCI) mode of the RHR system requires three factors: (1) pump ready for rated flow, (2) injection valve open to permit full flow and (3) full closure of the recirculation discharge valve. Under the limiting scenario, 57 seconds are available for the RHR pumps to start and accelerate to rated speed. The 57 seconds are derived from the time to reach the low pressure permissive to close the reactor recirculation discharge valve plus the full stroke closure time of the recirculation discharge valve. The series of events for the RHR pumps ready for rated flow are similar to the series of events for the CS pumps. Taking into account the sensor and acceleration delays, the RHR timer setting must be less than 50.9 seconds. Thus, the proposed two and eight second timer settings are within the analyzed condition. Neither change request involves additional loading onto the DC system. All replacement and additional relays resulting from these changes will be located in existing safety-related panels. The control relays provided will equal or exceed the ratings of the existing relays and meet the applicable design requirements for environmental and seismic qualification.

Change Request (3) is proposed to the Unit 3 Technical Specifications only to delete a footnote which is no longer required since the modification associated with the ADS bypass timer (Modification 633) was completed for Unit 3 on February 24, 1986. Removing the footnote will eliminate the need to check the status of the modification to determine the applicability of the specification. The licensee proposes this administrative change to enhance safety by reducing the effort required to interpret the specification.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided a discussion of the proposed changes as they relate to these standards; the discussion is presented below.

*Standard 1* - The proposed Category A changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Category A changes are proposed to improve the protection provided by the undervoltage protective relays. The application of two undervoltage relays per the proposed logic scheme represents a significant improvement in the level of protection provided to 480 volt MCC components under normal (non-LOCA) conditions. Although the proposed setpoint for the undervoltage relay used for protection

in the event of a LOCA is lower than the existing relay setpoint, protection to the MCC components is actually improved due to the improved operational tolerance of the proposed replacement relay. Increasing the setting on the "LOCA" time delay relay from 6 seconds to 9 seconds will ensure that he 4.16kV buses will not be spuriously transferred to the diesel generators in the event of a design basis accident with only one offsite power source available. These proposed changes do not affect the probability or consequences of any accidents previously evaluated, but ensure that the 4.16kV buses will not be spuriously transferred to the diesel generators thereby ensuring the validity of the existing accident analysis; specifically, a loss of coolant accident with off-site power available.

*Standard 2* - The proposed Category A changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes to the relay settings do not involve a redistribution of loads on safety-related buses or affect the electrical separation or redundancy of any safety-related trains or components. The proposed changes improve the undervoltage protective scheme and allow the 4.16kV buses to sustain a normal motor acceleration transient without a spurious transfer to an alternate power source. The Category A changes do not alter the intent of the relays, and do not create the possibility of a new or different kind of accident from any previously evaluated.

*Standard 3* - The proposed Category A changes do not result in a significant reduction in a margin of safety.

The Category A changes are proposed to enhance safety. The proposed change in undervoltage protection results in an improved protected voltage level to 480 volt MCC's and associated control components for both LOCA and non-LOCA conditions. The tolerance for the existing undervoltage relays is 272% of setting. The tolerance for the proposed undervoltage relays is 270.3% of setting. This results in an improved minimum protected level for non-LOCA conditions from 88.2% of rated voltage to 97.7% of rated voltage, and an improved minimum protected level for LOCA conditions from 88.2% of rated voltage to 88.7% of rated voltage.

The "non-LOCA" setpoint assures a limiting voltage value of 93% to 480 volt MCC's. An associated review of MCC contactor control circuits and implementation of control circuit modifications as necessary will assure 85% voltage to contactors. The "LOCA" undervoltage relay comes into effect on a LOCA signal, and the "non-LOCA" or normal protective setpoint is inhibited on the LOCA signal. The transition between the "non-LOCA" and "LOCA" undervoltage relays in essence represents a continuity of protection with respect to the offsite power sources to the 4.16kV buses when the effect of starting the 4kV ECCS motors on the 4.16kV buses is considered. Thus an improved continuity of protection against negative consequences of degrading grid or failure of offsite power source equipment is assured.

Increasing the time delay settings allows pump motors to accelerate without an unnecessary transfer to an alternate power supply. The changes do not involve a significant reduction in any margin of safety.

*Standard 1* - The proposed Category B changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

The Category B changes are proposed to ensure the validity of the existing accident analyses; specifically, a design basis LOCA with offsite power available. Revising the timer settings for the RHR and CS pumps will improve the voltage at the 480V levels during a motor acceleration transient and also prevents spurious transfer of the 4.16kV buses to the diesel generators in the event of a safety injection while operating with only one offsite power source available. Therefore, the proposed changes do not increase the probability or consequences of an accident previously evaluated.

*Standard 2* - The proposed Category B changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes to the CS and RHR systems only involve changes to load sequencing when offsite power is available. The proposed changes do not involve the CS or RHR system piping configurations, pumps, valves or system redundancies. The replacement timers required for the proposed load sequencing equal or exceed the ratings for the existing timers, and do not affect the environmental or seismic qualification of the panels in which they will be installed. Failure of any timer can only affect one redundant train of equipment. Therefore, the possibility of a new or different kind of accident is not created.

*Standard 3* - The proposed Category B changes do not result in a significant reduction in a margin of safety.

The proposed changes do not adversely affect the safety margin assumed in the 10 CFR Appendix K analysis for ensuring fuel integrity for the entire spectrum of postulated LOCAs. The limiting Appendix K scenario for core spray requires the CS pumps to be at rated flow 59 seconds after a LOCA to ensure the existing margin of safety. Under the proposed changes, the latest that the CS pumps will achieve rated flow is 35 seconds (3 seconds for detection of the LOCA plus 23 seconds for the longer of the CS timer delays plus a maximum of 9 seconds for motor acceleration). The limiting Appendix K scenario for the low pressure coolant injection mode of residual heat removal requires the RHR pumps to be at rated flow 57 seconds after a LOCA to ensure the existing margin of safety. Under the proposed changes, the latest that the RHR pumps will achieve rated flow is 14.1 seconds (3 seconds for detection of the LOCA plus 8 seconds for the longer of the RHR timer delays plus 3.1 seconds for motor acceleration). Therefore, although the Category B changes delay the availability of the CS and RHR pumps at rated flow, they do not result in a significant reduction in the margin of safety for core coolant delivery.

The staff has reviewed the licensees' no significant hazards consideration for Category A, items 1 and 2 and Category B, items 1 and 2 and agrees with the licensees' analysis. Accordingly, the Commission has proposed to determine that the above changes do not involve a significant hazards consideration.

The Category B, item 3, changes involving deletion of a now obsolete footnote is proposed as an administrative change to improve the use of the Technical Specifications. The Commission has provided guidance for the application of the criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations [51 FR 7751]. These examples include: Example (i) "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, corrections of an error, or a change in nomenclature." The proposed change, to delete a footnote which refers to a now completed modification is an example of such an administrative change since, now that the modification has been completed, the specification is in effect and the footnote is extraneous. Since this proposed change is encompassed by an example for which no significant hazard exists, the staff has made a proposed determination that it involves no significant hazards consideration.

*Local Public Document Room location:* Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

*Attorney for Licensee:* Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW. Washington, DC 20006

*NRC Project Director:* Walter R. Butler

**Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York**

*Date of amendment request:* December 2, 1988

*Description of amendment request:* The licensee has provided the following description:

Using the guidance provided by Generic Letter 87-09, this proposed change will clarify applicability of limiting conditions for operation and associated action requirements when a surveillance requirement is not performed within its allowed surveillance interval. It will state that a missed surveillance shall constitute noncompliance with the operability requirements of the related LCOs. It will specify that time limits for required actions for operating in a degraded mode apply at the time it is identified that a surveillance requirement has not been performed.

For allowable outage times that are less than 24 hours, a 24 hour delay period will be added to allow performance of a missed surveillance to satisfy operability requirements before implementing action requirements applicable to operating in a degraded mode.

The basis will be expanded accordingly to ensure the proposed changes for missed surveillance requirements are implemented consistent with the guidance provided in GL 87-09.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

A significant increase in the probability or consequences of an accident previously evaluated is not involved. A small increase in risk is associated with delaying the implementation of an LCO for 25 hours to allow completion of a missed surveillance. This risk is offset by a reduction in the possibility of a plant upset and challenge to safety systems. The risk of plant upset is greater if testing to complete a surveillance requirement is in progress at the time plant shutdown is commenced to comply with an LCO. It is preferable to allow time to complete the surveillance and demonstrate operability prior to changing plant status. The increase in safety gained from demonstrating operability during the delay period balances out the risk associated with the delay. In the case where inoperability is determined by testing during this extension, plant safety is enhanced if the affected equipment can be restored to an operable status prior to changing the plant's operating condition.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed change, as analyzed, does not involve a new or different kind of accident, from that previously evaluated. The definition of operability is clarified for the case of a missed surveillance. The application of LCO action requirements is expanded upon in this case and a delay is allowed by this proposed change to complete a missed surveillance before taking required actions. This affects only the impact of surveillance activities on plant operations by providing interpretation to the operator regarding the implementation of associated LCOs. Therefore, the possibility of a new or different kind of accident is not created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

A significant reduction in a margin of safety is not involved. An allowance for testing while operating is incorporated in the design of safety systems provided to prevent plant transients from approaching margins of safety. By allowing the completion of a missed surveillance before applying LCO shutdown requirements, this change will in fact reduce the potential for a challenge to safety systems while they are undergoing required testing.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Project Director:* Robert A. Capra, Director

**Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York**

*Date of amendment request:* December 30, 1988.

*Description of amendment request:* The licensee has provided the following description:

This application seeks to amend Section 3.3 and Section 4.4 of Appendix A to the Operating License by revising the Limiting Condition for Operation (LCO) for the Weld Channel and Penetration Pressurization System (WC&PPS) and the Isolation Valve Seal Water System (IVSWS) to more closely reflect the system design. The proposed LCO changes will apply to the four independent zones of the WC&PPS and the individual station headers of the IVSWS, rather than to the supply headers of these systems. Consistent with the Westinghouse Standard Technical Specifications the allowable out-of-service time for one individual zone or station header of these systems will be seven days. The proposed change will also relocate an LCO from the Surveillance Requirements, Section 4.4 to Section 3.3.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee has provided the following analysis:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response*

The proposed change involves a revision in application of the WC&PPS and IVSWS operability requirements to more closely reflect system design and safety function. As the safety function and operability requirement of the WC&PPS is to provide compressed air to containment penetrations and liner weld channels, the LCO is clarified to specifically apply to those system distribution zones which supply this air directly to these penetrations. Neither the clarification in applicability of the LCO or the addition of three days to the out-of-service time allowed by these LCOs should significantly impact the availability of these systems to reduce containment leakage in the event of an accident. Since only a small portion of these systems are allowed to be temporarily out-of-service for a short period of time, there is little change in the probability that the WC&PPS and IVSWS will not be able, at least in part, to perform their function of reducing isolation valve or penetration leakage, if any should occur. In any event, the operability of these systems is not considered in previous evaluations. Therefore, no significant increase in the probability or consequences of an accident previously evaluated are involved.

(2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response*

The proposed change does not involve a physical change to any plant systems, structures or components. The proposed change does not adversely affect the manner in which the plant is operated. Hence, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

*Response*

The LOCA offsite dose calculations, which do not assume WC&PPS and IVSWS operations, demonstrate that the calculated offsite doses are well within the 10 CFR Part 100 limits. Therefore, the margin of safety between the calculated offsite dose and the regulatory acceptable limits remains unchanged. However, operation of these systems assures that the containment leak rate is lower than that calculated by an uncalculated amount. This represents an additional assurance that the margin of safety remains unchanged. The revision of LCO applicability and out-of-service time for these systems will not significantly impact

this additional assurance that containment leakage will be lower than that calculated. Since postulated LOCA assumptions remain unchanged and the proposed change does not involve a physical change to the WC&PPS and IVSWS, a significant reduction in the original margin of safety is not involved.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Project Director:* Robert A. Capra, Director

**Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendment request:* December 20, 1988

*Description of amendment request:* The proposed amendments would delete from the Salem 1 and 2 Technical Specifications a portion of Surveillance Requirement 4.5.2.i associated with verifying that the Residual Heat Removal (RHR) System suction/isolation valves automatically close on a Reactor Coolant System pressure signal. Issuance of these amendments will allow the removal of the RHR Autoclosure Interlock (ACI) circuitry.

*Basis for proposed no significant hazards consideration determination:* Both the industry and the NRC have recognized the safety benefits of removing the Residual Heat Removal Autoclosure Interlock circuitry (RHR ACI). The NRC-AEOD case study on long term decay heat removal, Case Study Report AEOD/C503, Decay Heat Removal Problems at U.S. Pressurized Water Reactors, December 1985, recommended that consideration should be given to removal of the RHR ACI circuitry to minimize loss of decay heat removal events. Also, a study performed for the NRC by Brookhaven National Laboratory, NUREG/CR-5015, Improved Reliability of Residual Heat Removal Capability in PWRs as Related to Resolution of Generic Issue 99, May 1988, listed several improvements to reduce the risk of loss of decay heat removal. One improvement was the removal of the RHR ACI circuitry.

In parallel with the NRC activities, the Westinghouse Owners Group initiated a program to evaluate the removal of the RHR ACI circuitry on all Westinghouse designed plants. The end product of this program was WCAP-11736, Residual Heat Removal System Autoclosure Interlock Deletion Report for the Westinghouse Owners Group, Volumes 1 and 2, Revision 0.0, February 1988. WCAP-11736 documents the probabilistic analysis performed on the removal of the RHR ACI in terms of (1) the likelihood of an interfacing loss-of-coolant-accident (LOCA), (2) Residual Heat Removal system availability, and (3) low temperature over-pressurization concerns. The results of the analysis show that (1) the frequency of an interfacing system LOCA decreases with the removal of the RHR ACI, (2) removal of the RHR ACI increases the RHR system availability, and (3) removal of the RHR ACI has no effect on heat input transients, but will result in a small, but not significant, increase in the frequency of occurrence for some types of mass input transients with a decrease in others. The net effect of RHR ACI deletion is an improvement in safety.

To provide assurance that the Reactor Coolant system (RCS) will not be pressurized with the Residual Heat Removal system inlet valves open WCAP-11736 requires that a safety grade alarm be added that will actuate in the control room given a "VALVE NOT FULLY CLOSED" signal in conjunction with a "RCS PRESSURE-HIGH" signal. The intent of this alarm is to alert the operator that the RCS/RHR series suction/isolation valve(s) is(are) not fully closed, and that double valve isolation from the Reactor Coolant system to the Residual Heat Removal system is not being maintained. WCAP-11736 further states that applicable operating procedures should be modified to reflect this new alarm and describe the appropriate response. The licensee has committed to adding the alarm and modifying the operating procedures before implementing the requested technical specification change.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

The proposed change does not involve a significant hazards consideration because operation of Salem Generating Station Units 1 and 2 in accordance with this change would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The deletion of the RHR ACI was analyzed in WCAP-11736 in terms of (1) the frequency of an interfacing LOCA, (2) the availability of the RHR system, and (3) the effect on overpressure transients.

With the removal of the ACI and addition of a control room alarm, the probabilistic risk analysis predicts a decrease in the frequency of interfacing LOCAs from 8.35E-07 to 5.77E-07/year, a decrease of approximately 31%.

The availability of the RHR system was analyzed in three phases: initiation, short term cooling, and long term cooling. The probabilistic analysis indicated that deletion of the RHR ACI has no impact on the failure probability for RHR initiation. During short term cooling (72 hours after initiation), RHR ACI deletion decreased the RHR failure probability by 13%, from 1.60E-02 to 1.40E-02. The long term cooling RHR failure probability was calculated to decrease by 67% from 3.60E-02 to 1.20E-02.

Appendix D of WCAP-11736 presents the analysis used to determine the effect of removal of the ACI on overpressurization transients. The analysis categorizes the types of initiating events, determines their frequency of occurrence, and then identifies the consequences of these occurrences both with and without the ACI feature. The result is a list of overpressure consequence categories with associated failure probabilities (see Reference 4 [WCAP-11736], Appendix D, Tables D-9, -10 and -11). For the charging/safety injection event, consequence frequencies increased on the order of 1.0E-10 shutdown year. This is an insignificant increase as the overall consequence frequency of the charging/safety injection event is 1.25E-01. Likewise, for the letdown isolation with RHR system operable case, one frequency category was increased on the order of 1.0E-11. Again this is insignificant when compared with the total frequency of these events of 1.25E-01. For the letdown isolation with RHR system isolated event, the overall consequence frequency was reduced from 4.45E-01 to 2.22E-01. This occurs because many spurious closures of the RHR isolation valves cause the isolation of letdown.

Removing the RHR ACI reduces the frequency of this event by approximately 50%. It is concluded that the removal of the RHR ACI circuitry has an insignificant impact on the frequency of overpressurization events at Salem Station.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated. The effect of an overpressure transient at cold shutdown conditions will not be altered by removal of the RHR ACI function. With or without the ACI function, the RHR system could be subject to overpressure for which the RHR relief valves must be relied upon to limit pressure to within RHR design parameters. While it is true that the ACI initiates an

automatic closure of the RHR suction/isolation valves on high RCS pressure, overpressure protection of the RHR system is provided by the RHR system relief valves and not by the slow acting suction/isolation valves that isolate the RHR system from the RCS. This is reflected in the Salem UFSAR, which states:

Isolation of the RHR System is achieved with two remotely-operated series stop valves in the line from the RCS to the RHR pump suction and by two check valves in series in each line from the RHR pump discharge to the RCS, plus a remotely-operated stop valve in each discharge line. Overpressure in the RHR System is relieved through a relief valve to the pressurizer relief tank in the RCS. (Reference 7) [Salem UFSAR Section 5.5.7.2, page 5.5-28, Revision 7]

The purpose of the ACI feature is to ensure that there is a double barrier between the RHR system and RCS when the plant is at normal operating conditions, i.e., pressurized and not in the RHR cooling mode. Thus the ACI feature serves to preclude conditions that could lead to a LOCA outside of containment due to operator error. The safety function of the ACI is not to isolate the RHR system from the RCS when the RHR system is operating in the decay heat removal mode.

There are several methods to ensure that there is a double barrier between the RHR system and the RCS when the plant is at normal operating conditions. First, plant operating procedures instruct the operators to isolate the RHR system during plant heatup. Second, an alarm that will be installed as part of this change would annunciate in the control room given a "VALVE NOT FULLY CLOSED" signal in conjunction with a "RCS PRESSURE-HIGH" signal. This alarm would alert operators that either the RH1 or RH2 valve is not fully closed, and that double isolation has not been achieved. In conjunction with this, operators will be trained using revised alarm response procedures to ensure they act to restore double isolation or return to a safe shutdown condition. Third, the open permissive interlock, which is not being removed, will prevent the opening of the RH-1 and RH-2 whenever the RCS pressure is greater than the RHR system design pressure.

Since relief valves prevent overpressurization of the RHR system during shutdown conditions and several methods are in place to ensure that the RHR system is isolated from the RCS during normal plant conditions, removal of the ACI does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) involve a significant reduction in a margin of safety. The RHR ACI function is not a consideration in a margin of safety in the basis for any Technical Specification. However, since the probabilistic analysis of WCAP-11736 indicates that the availability of the RHR system is increased with the removal of the ACI, overall safety has been increased.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

*NRC Project Director:* Walter R. Butler

**Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendment request:* December 30, 1988

*Description of amendment request:* The proposed amendments to the Salem Units 1 and 2 Technical Specifications would permit the use of a new fuel design, Vantage 5 Hybrid, in both Salem Units. Additional changes are proposed to reduce the flow measurement uncertainty allowance because of recent plant modifications and to eliminate the rod bow penalty based on new analysis methods applied during the Vantage 5 Hybrid safety analysis. Specifically the Salem Units 1 and 2 Technical Specifications would be revised as follows:

1. Bases - Change the W-3 correlation to W-3 (R-Grid) and add the WRB-1 correlation and design Departure from Nucleate Boiling Ratio (DNBR) limits for Vantage 5H fuel (V5H).

2. Modify Specification 3.1.3.3 to incorporate a new rod drop time of less than or equal to 2.7 seconds.

3. Modify Unit 1 and Unit 2 Specification 3.2.3 to delete the Rod Bow Penalty as a function of burnup in the F-Delta-H equation and delete Figure 3.2-3.

4. Modify Unit 1 and Unit 2 Specification 3.2.5 Table 3.2-1 to define the Reactor Coolant System flow limit, including uncertainties, to be 357,200 GPM.

*Basis for proposed no significant hazards consideration determination:* Proposed revisions 1 and 2 are being requested to allow for the implementation of an improved fuel design, Westinghouse Vantage 5H fuel (V5H). Rod drop times are increased because of an increased dashpot effect caused by a reduction in guide tube diameter.

Proposed revisions 3 and 4 are being requested to incorporate new evaluation methods for the effects of fuel rod bow on departure from nucleate boiling (DNB). The new methods provide a basis to eliminate unnecessary power distribution penalties and to simplify the specification. Consistency between the Unit 1 and 2 Technical Specifications is also achieved.

Proposed revisions 5 and 6 are being requested to clearly define the DNB flow parameter limit plus uncertainties based upon the plants current configurations (previously licensed resistance temperature detector (RTD) flow uncertainty reductions) and to achieve consistency between the Unit 1 and 2 Technical Specifications.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

1. DNBR Bases Definition, Increased Rod Drop Time and Elimination of Rod Bow Penalty [Items 1-3]

The evaluation considered the effects of the proposed Technical Specification changes on the following areas:

a. Nuclear, Thermal-hydraulic and Mechanical Fuel Assembly Design

b. Non-Loca Accidents

c. Loca Accidents

The above areas have been evaluated including the concurrent effects of V5H features, thimble plug deletion, loose parts in the RCS and up to 3.5% steam generator tube plugging. In addition, transition core effects (mixed core of V5H and the 17X17 Standard product) have been addressed. The analyses required for the evaluations were performed by Westinghouse using approved methods and procedures (Attachment 4) [Public Service Electric and Gas Co. letter to NRC dated December 30, 1988, Plant Safety Evaluation for Salem Units 1 and 2 Fuel Upgrade, Dated November 1988]. LOCA evaluations were performed using the 1978 Westinghouse large break LOCA model which is our current evaluation model of reference. The results of the LOCA evaluations will be reevaluated against the Westinghouse updated model as part of the reanalysis required by the Salem Unit 2 Schedular Exemption from 10 CFR 50.46(a)(1)(i) (Ref. letter from J. C. Stone, Project Manager, Office of Nuclear Reactor Regulation to S. E. Miltenberger, Vice President and Chief Nuclear Officer, PSE&G, dated November 1, 1988). PSE&G has

reviewed and concurs with the Westinghouse analyses.

Operation of the Salem Units in accordance with the proposed Technical Specification changes:

a. Will not involve a significant increase in the probability or consequences of an accident previously evaluated for the Salem Units. The evaluations of the Nuclear, Thermal-hydraulic, and Mechanical design effects support the conclusion that the requested changes are within the design criteria established in the Updated Final Safety Analysis Report. Consequently, no new mechanisms have been introduced to increase the probability of an accident occurring. The accident evaluations (LOCA and NON-LOCA) exhibit results which maintain the confidence level in the physical integrity of the fission product boundaries as defined in the Updated Safety Analysis Report. Therefore, the consequences of the accidents do not increase.

b. Will not create the possibility of a new or different kind of accident from any accident previously evaluated for the Salem Units. The evaluations performed establish that the Updated Final Safety Analysis Report design criteria and system responses during normal and accident conditions are bounding with respect to the requested changes. Therefore, the changes will not affect the function of any protection system nor introduce hardware which is different in design criteria requirements.

c. Will not involve a significant reduction in a margin of safety. The evaluations performed by Westinghouse addressed all design criteria and accident analyses. In performing the evaluations, the safety limits established by the Updated Final Safety Analysis Report and Technical Specifications were not modified such as to reduce the difference between the safety limit and the limit defined as the failure point of a fission product boundary. Therefore, the margins which were assumed in the accident analyses remain bounding for the proposed changes.

2. Definition of DNB Parameter Reactor Coolant Flow Limit [Item 4]

The evaluation considered the effect of the proposed Technical Specification changes on the following areas:

a. Updated Final Safety Analysis Report Chapter 15 Events

b. Protection System Setpoints and Response

The analyses required for the above evaluations were performed by Westinghouse and the results documented in WCAP-11579 (forwarded via PSE&G letter NLR-N87157, dated September 17, 1987). PSE&G has reviewed the WCAP and concurs with the results. In addition, a review of the units instrumentation uncertainties provides the conclusion that the results of WCAP-11579 are applicable for the Salem units. Specifically, the Unit 2 actual measurement uncertainties were verified to be bounded by the uncertainties assumed in WCAP-11579 (PSE&G letter NLR-N88171, dated October 19, 1988). The instrumentation in Unit 1 is comparable to the Unit 2 instrumentation, therefore, the comparison of uncertainties provided in NLR-N88171 is bounding for the Unit 1 instruments.

Operation of the Salem Units in accordance with the proposed Technical Specification changes:

a. Will not involve a significant increase in the probability or consequences of an accident previously evaluated for the Salem Units. The reduction in the uncertainty value is attributed to the reduced error associated with the modified RCS narrow range temperature monitoring system. The Chapter 15 accident analyses impacted by this modification were previously reviewed and approved by the NRC as Amendments 84 and 56 to the Salem Unit 1 and 2 licenses, respectively, and by Amendment 64 to the Unit 2 license.

b. Will not create the possibility of a new or different kind of accident from any accident previously evaluated for the Salem Units. The correction factor which modifies the RCS minimum flow value limit is based on an analysis of flow measurement uncertainties. The correction does not affect any process variable which inputs to a process control or reactor protection system control function. Therefore, Chapter 15 analyses are not affected.

c. Will not involve a significant reduction in a margin of safety. An RCS Flow uncertainty error of 3.5% was originally assumed for the purpose of calculating a minimum allowable RCS flow rate for safe plant operation. The uncertainty correction provides a reference point from which the relative magnitude of the safety margin between measured flow rate and design thermal flow rate can be inferred. WCAP-11579 demonstrates that the total uncertainty associated with the modified RCS narrow range temperature monitoring system could be reduced to a conservative value of 2.2% from existing value of 3.5%. In addition to the 2.2%, an additional uncertainty of 0.1% for feedwater venturi fouling will be added for a total uncertainty factor of 2.3%. The evaluations provided show that the change to the allowable flow uncertainty does not result in a reduction to the margin of safety as identified in the Final Safety Analysis Report. The value of the thermal design flow used in DNBR analyses remains the same as in the current UFSAR.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

*NRC Project Director:* Walter R. Butler

**Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendment request:* January 3, 1989

*Description of amendment request:* The proposed amendments would define for Salem Unit 1 and Salem Unit 2 the Fully Withdrawn position of Rod Cluster Control Assemblies to address potential rod wear concerns as seen at other Westinghouse designed plants. Sections of the Salem Unit 1 and Salem Unit 2 Technical Specifications that are affected by the definition of Fully Withdrawn are to be changed accordingly. In addition, changes are proposed to delete from Salem Unit 1 Technical Specifications a rod bank insertion limit curve for three loop operation and to correct inconsistencies between Salem Unit 1 and Salem Unit 2 Technical Specifications. Specifically the Same Unit 1 and Salem Unit 2 Technical Specifications would be revised as follows:

1. Definitions - add a definition for the fully withdrawn position of the Rod Cluster Control Assemblies (RCCAs).

2. Modify definition 1.28, Shutdown Margin, Specifications 3.1.3.4 and 3.10.1, and Bases 2.1.1 and 3/4.1.3 to incorporate the new definition of "Fully Withdrawn".

3. Replace Figure 3.1-1 to incorporate the new definition of Fully Withdrawn.

4. Delete Figure 3.1.2 from Unit 1.

5. Modify Specification 3.1.3.3 to clarify rod drop test requirements.

6. Modify Unit 2 Specification 3.1.3.2.2 to incorporate the rod drop testing requirements previously in Specification 3.10.5.

7. Add to Unit 1 Specification 3.1.3.2.2 rod drop test requirements as included in Unit 2 to achieve consistency between units.

8. Delete Unit 2 Specification 3.10.5.

*Basis for proposed no significant hazards consideration determination:* Proposed revision items one through three are being requested to address potential rod wear concerns as seen previously at other Westinghouse plants. These items redefine Fully Withdrawn to be between 222 and 228 steps withdrawn.

Proposed revision Item four is being requested to delete the curve implementing three loop operations which is not currently allowed but is still affected by redefining Fully Withdrawn. Rather than modifying this specification, it is proposed to be deleted. This is consistent with the Unit 2 specifications.

Item five is being requested to clarify that rod drop test times are to be performed from 228 steps withdrawn. With the proposed redefinition of Fully Withdrawn, test times could be performed from 222 steps withdrawn if this clarification was not made.

Proposed revisions six through eight are being requested to correct an inconsistency present in the current Unit 2 Technical Specifications. Previously, a change was approved that no longer required that the Analog Rod Position Indication (ARPI) be operable in Modes 3, 4 and 5. This eliminates the need for Specification 3.10.5 since the other requirements are being addressed in specification 3.1.3.2.2. The rod drop test requirements are being added to Unit 1 for consistency between units.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

1. Rods Fully Withdrawn Definition (Items 1-5)

A safety evaluation has been performed to address repositioning the fully withdrawn position of the RCCAs (Attachment 4) [Public Service Electric and Gas Co. Letter to NRC dated January 3, 1989, Analysis of effects of RCCA Repositioning on loss-of-coolant related accidents]. The evaluation considered the effects of the proposed technical specification changes on the following areas:

a. Small Break LOCA
b. Large Break LOCA
c. Short and Long Term LOCA
d. Steam Generator Tube Rupture
e. Post-LOCA Long Term Cooling
f. Hot Leg Switchover to Prevent Potential Boron Precipitation
g. Blowdown Reactor Vessel and Loop Forces
h. Non-LOCA Transients

The conclusions of the evaluation are as follows:

a. The changes in the definition of the fully withdrawn RCCA position proposed create no significant changes in the affected safety parameters involved in verification of current technical specification limits. The involved safety parameters include those parameters normally addressed by the cycle specific Reload Safety Evaluation Checklist. The change of the fully withdrawn position from 228 steps to 222 steps or higher involves only a small amount of absorber being inserted into the active region of core and does not result in any design or regulatory limit being exceeded.

b. No FSAR safety limits are exceeded based on the proposed technical specification change. The position of the control and shutdown banks, relative to each other in the core will not change; therefore the limiting axial power distribution assumed for the DNB analyses remain applicable. The FSAR conclusion that the DNBR design basis acceptance criteria is met for the Condition II events remains valid. Additionally, there is no significant impact on any core physics assumptions and design peaking factors important to the non-LOCA safety analyses and the reload verification.

c. The proposed change does not invalidate current control rod drop times or other tripped rod characteristics assumed in the LOCA licensing basis analysis.

Operation of the Salem Units in accordance with this proposed technical specification change:

a. Would not involve a significant increase in the probability or consequences of an accident previously evaluated for the Salem Units, since the changes caused by repositioning the fully withdrawn position of the control rods are bounded by those assumed in the accident analyses.

b. Would not create the possibility of a new or different kind of accident from any accident previously evaluated for the Salem Units, since no plant hardware changes are required by this change.

c. Would not involve a significant reduction in a margin of safety, since the margin which was assumed in the accident analyses bounds the change proposed.

2. Elimination of Special Test Exemption 3.10.5 (Items 6-8)

Operation of the Salem Units in accordance with this proposed Technical Specification change:

a. Would not create a significant increase in the probability or consequences of an accident previously evaluated for the Salem Units since the change is administrative in that it eliminates an unnecessary specification and incorporates the requirements into an existing specification. Additionally, it imposes a like requirement into the Unit 1 Technical Specification;

b. Would not create the possibility of a new or different kind of accident from any accident previously evaluated for Salem since no plant hardware modifications are required and no tests are being deleted;

c. Would not involve a significant reduction in a margin of safety, since no analytical or test changes are being made.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

*NRC Project Director:* Walter R. Butler

**Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California**

*Date of amendment request:* December 30, 1988

*Description of amendment request:* The proposed amendment involves proposed changes to the Surveillance Standards of the Technical Specifications on a one-time basis. The requested changes are for a one-time extension for surveillances that are currently required by the Technical Specifications to be performed beginning March 29, 1989. Specifically, the changes involve the following Technical Specification sections:

4.0 General Surveillance Requirements

4.4.1.2 Local Leakage Rate Tests

4.5.3 Decay Heat Removal System and Reactor Building Spray System Leakage

The licensee requested that the surveillances be performed at the next refueling outage currently scheduled to begin on or before August 1, 1989.

This request encompasses all Hot Shutdown and Cold Shutdown surveillances due prior to August 1, 1989 except those regarding the emergency diesel generators. In addition this proposed amendment clarifies the surveillance period of the Decay Heat Removal Test defined in Specification 4.5.3.2.A.

All requested surveillance test extensions are associated with surveillances normally performed during refueling outages. Since the restart of Rancho Seco in March 1988, following an extended maintenance outage, the duration of the current refueling cycle, Cycle 7, has been lengthened due to operational testing at reduced power and several short maintenance outages.

*Basis for Proposed No Significant Hazards Consideration Determination:* The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The licensee has determined that the requested amendment per 10 CFR 50.92 does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because extending surveillances by four months does not significantly affect the probability of accidents, nor will degradation occur in these four months that would change the consequences of an accident; or

(2) Create the possibility of a new or different kind of accident from an accident previously evaluated because the proposed Technical Specification changes do not change the operation of any equipment and the systems' abilities to perform their intended functions will not be altered; or

(3) Involve a significant reduction in a margin of safety because system operation is not affected and deferral of the surveillances will not result in significant degradation of equipment.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Accordingly, the Commission has proposed to determine that the above changes do not involve a significant hazards consideration.

*Local Public Document Room location:* Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822

*Attorney for licensee:* David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, Post Office Box 15830, Sacramento, California 95813

*NRC Project Director:* George W. Knighton

**Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California**

*Date of amendment request:* December 29, 1988

*Description of amendment request:* The proposed amendment is a request to revise Appendix A Technical Specifications to incorporate Limiting Conditions for Operation (LCOs) and Surveillance requirements associated with the containment spray actuation instrumentation. In accordance with resolution to Systematic Evaluation Program Topic VI-10.A, "Testing of Reactor Trip System and Engineered Safety Features, Including Response Time Testing," this proposed change incorporates LCOs and surveillances that are not currently included in the technical specifications.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis about the issue of no significant hazards consideration which is quoted below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*RESPONSE:* No

The Containment Spray Actuation System (CSAS) is an accident mitigation system with no impact on accident probabilities. The CSAS is an existing system and this proposed change will incorporate surveillance and operability requirements into the technical specifications. The operability of the CSAS does affect previously analyzed accident consequences, as these accidents require successful operation of the CSAS to achieve their calculated design basis conclusion. Therefore, it is concluded that operation of the facility in accordance with this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*RESPONSE:* No

The CSAS is an existing plant system and formally requiring its operability and surveillance does not create any new or different accidents. The proposed LCOs and surveillance requirements are consistent with STS specifications in this area, and, accordingly, are appropriate. Therefore, it is concluded that operation of the facility in accordance with this proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

*RESPONSE:* No

Requiring the CSAS to be operable and surveilled will preserve existing, analyzed margins of safety. As the proposed change is in conformance with STS guidance, a required and assumed margin of safety will be maintained. Therefore, it is concluded that operation of the facility in accordance with this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* General Library, University of California, P.O. Box 19557, Irvine, California 92713.

*Attorney for licensee:* Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

*NRC Project Director:* George W. Knighton

**Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California**

*Date of amendment request:* December 29, 1988

*Description of amendment request:* The proposed amendment would revise Technical Specifications associated with the Reactor Protection System instrumentation. This proposed change incorporates Limiting Conditions for Operation and Surveillance requirements into the technical specifications that are currently performed by procedure. In addition, surveillance intervals and out of service times have been increased in accordance with Westinghouse recommendations as documented in WCAP-10271.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis about the issue of no significant hazards consideration which is quoted below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No

Implementation of the proposed changes is expected to result in an acceptable increase in total Reactor Protection System yearly unavailability. This increase, which is primarily due to less frequent surveillance testing, results in an increase of similar magnitude in the probability of an Anticipated Transient Without Scram (ATWS) and in the probability of core melt resulting from an ATWS. Based on the following, these slight increases are judged to be acceptable.

Implementation of the proposed changes is expected to result in a significant reduction in the probability of core melt from inadvertent reactor trips. This is a result of a reduction in the number of inadvertent reactor trips (0.5 fewer inadvertent reactor trips per unit per year) occurring during testing of RPS instrumentation. This is primarily attributable to testing in bypass and less frequent surveillance.

The reduction in inadvertent core melt probability is sufficiently large to counter the increase in ATWS core melt probability resulting in an overall reduction in total core melt probability. Incorporation of additional controls not currently in the technical

specifications does not impact the probability or consequences of an accident previously evaluated, as these additional surveillances are currently maintained administratively by plant procedures.

The proposed changes do not result in an increase in the severity or consequences of an accident previously evaluated. Implementation of the proposed changes affects the probability of failure of the RPS but does not alter the manner in which protection is afforded nor the manner in which limiting criteria are established.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No

The proposed changes do not result in a change in the manner in which the Reactor Protection System provides plant protection. No change is being made which alters the functioning of the Reactor Protection System (other than in a test mode). Rather, the likelihood or probability of the Reactor Protection System functioning properly is affected as described above. Therefore, the proposed changes do not create the possibility of a new or different kind of accident.

The proposed changes do not involve hardware changes except those necessary to implement testing in bypass. Some existing technical specifications allow testing in bypass. Testing in bypass is also recognized by IEEE Standards. Therefore, testing in bypass has been previously approved and implementation of the proposed changes for testing in bypass does not create the possibility of a new or different kind of accident from any previously evaluated. Furthermore since the other proposed changes do not alter the functioning of the RPS, the possibility of a new or different kind of accident form any previously evaluated has not been created.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

*Response:* No

The proposed changes do not alter the manner in which safety limits, limiting safety system setpoints or limiting conditions for operation are determined. The impact of the reduced testing other than as addressed above is to allow a longer time interval over which instrument uncertainties (e.g., drift) may act. Experience at two Westinghouse plants with extended surveillance intervals has shown the initial uncertainty assumptions to be valid for reduced testing.

Implementation of the proposed changes is expected to result in an overall improvement in safety by:

a. 0.5 fewer inadvertent reactor trips per unit. This is due to less frequent testing and testing in bypass which minimizes the time spent in a partial trip condition.

b. Higher quality repairs leading to improved equipment reliability due to longer repair times.

c. Improvements in the effectiveness of the operation staff in monitoring and controlling plant operation. This is due to less frequent distraction of the operator and shift supervisor to attend to instrumentation testing.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* General Library, University of California, P.O. Box 19557, Irvine, California 92713.

*Attorney for licensee:* Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

*NRC Project Director:* George W. Knighton

**Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

*Date of amendment requests:* September 29, 1988 (TS 257)

*Description of amendment requests:* Browns Ferry Nuclear Plant Technical Specifications Tables 3.2.J and 4.2.J, Seismic Monitoring Instrumentation, are being revised to reflect the manufacturer's suggested testing for the upgraded triaxial peak accelerographs. This upgrade replaced the Terra Technology (PRA-103S) seismic instruments with the EngDahl (PAR-400-2) seismic instruments. These new instruments were installed to improve instrument efficiency and dependability. In addition to the manufacturer's recommendations, several administrative changes are also being made to these tables and to the Bases for Technical Specification, Section 3.2.

Specifically, the channel calibration frequency for triaxial time history accelerographs and the triaxial peak accelerographs would be changed from "N/A" to "R" (refueling). The channel functional test frequency for the triaxial peal accelerographs would be changed from "12 months" to "N/A." The channel functional test frequency for the triaxial time history accelerographs and the biaxial seismic switches would be changed from "six months" to "SA" (semi-annually). The channel calibration frequency for biaxial seismic switches would be changed from once/operating cycle to "R"; i.e., each refueling cycle. The note which says "except seismic switches" and is referenced by the channel check requirements for the triaxial time history accelerographs and the biaxial seismic switches would be deleted. The other administrative changes would provide a consistent order to the tables, numbering the table entries for each type of instrument, and correcting the spelling of accelerograph. Also, in each table after each biaxial siesmic switch, the correct elevation (EL. 519) is added.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) Create the possibility of a new or different kind of accident previously evalauted or (3) Involve a significant reduction in a margin of safety. The staff has reviewed the licensee's no significant hazards determination analyses, provided to the Commission, in accordance with 10 CFR 50.91. The staff concurs with the licensee's determination. However, the staff has determined that additional clarification was needed and, therefore, the staff is providing the following determination with these clarifications:

1. The replacement of the original seismic instruments with the EngDahl instruments does not involve a significant increase in the probability or consequences of an accident previously evaluated. Regulatory Guide 1.12 requires that seismic instrumentation be installed at nuclear power plants so that, in the event of an earthquake, the seismic response of plant features important to safety can be determined promptly. This response is then compared with that used in the design basis in order to decide whether the plant can continue to be operated safety. Although the monitoring instrumentation hardware is being changed, the intended monitoring functions and data provided by the EngDahl instruments are consistent with the appropriate Regulatory Guide. The replacement of the seismic instruments will provide easier field calibrations to be performed, greater reliability than the previous instruments, and therefore improve plant ability to monitor peak accelerations during a seismic event. The replacement of these instruments support the current design bases, noted regulatory requirements, and does not invalidate any safety analysis assumed for the licensing and operation of BFN.

The surveillance requirements in Table 4.2.J are being revised to incorporate the vendor recommended

testing frequencies. The revision to the Channel Calibration testing frequencies for the triaxial history accelerographs and triaxial peak accelerographs to once per refueling outage is consistent with the GE Standard Technical Specifications as well as Table 1, Frequency of Maintenance, of ANSI/ANS-2.2-1978, "Earthquake Instrumentation Criteria for Nuclear Power Plants." The addition of these surveillances provides added assurance that the subject equipment performs as designed. Deleting the triaxial peak accelerograph Channel Functional Test and adding the Channel Calibration Test does not degrade the intent of the current TS since the Channel Calibration test is a more comprehensive operability verification. The changes made to the surveillance testing frequencies will still provide adequate verification that the instrumentation is performing its intended design function.

The administrative changes being made are to correct typographical errors existing in the current Tables. The other administrative changes provide greater consistency between the two Tables, make the testing frequency notations consistent with the existing definitions section, and provide elevations for the location of the seismic monitors.

The changes discussed above do not affect the function or intended design bases for any safety-related equipment currently installed at BFN. The replacement instrumentation, amended surveillance testing, nor the administrative changes do not change any of the safety analysis, assumptions made in the Final Safety Analysis Report, or calculations used in the design or licensing basis for BFN.

2. The proposed change does not create the possibility of a new or different kind of accident from an accident previously evaluated. The replacement EngDahl seismic instruments provide the same type of data and are similar in size to the original instruments. The seismic instruments are mounted on specific pipes inside the plant.

The size of the replacement instruments are similar enough that only minor mounting bracket modifications were needed. The seismic qualification of the piping was not affected. Since this is a hardware modification, the intended function and parameters monitored will remain the same as the original instruments. This amendment does not change the intended function or operation of any safety-related equipment, emergency operating procedures, or operating procedures, or operating practices.

Amending the surveillance frequencies as noted is in compliance with the appropriate industry standards and vendor recommendations. This amendment does not change the intent of the existing TS and additionally ensures that, through the proper testing and calibration, the instrumentation is performing its intended function.

The proposed administrative changes provide consistency between the Tables. These changes do not affect any operational conditions, safety-related equipment, or setpoints which could cause or adversely affect the mitigation of a new or different kind of accident from an accident previously evaluated.

3. The proposed changes do not significantly decrease the margin of safety at BFN. The replacement of the seismic instruments is a hardware change only. The new instruments will provide added reliability and therefore, improve the plant's overall ability to monitor peak accelerations caused by a seismic event. The replacement instruments will perform the same function as the original seismic instruments.

Amending the surveillance frequencies as noted is consistent with current industry standards and practices. These changes are also consistent with the vendor recommendations. The surveillances are to be utilized to ensure appropriate instrument function.

The administrative changes are being made to provide consistency between the Tables and correct typographical errors. These changes are administrative in nature and do not reduce any margin of safety.

The seismic monitoring instrumentation is not required to mitigate the consequences of any design basis events, but rather provide data for evaluation after a seismic event to ensure that the plant can continue to operate safely. Therefore, the proposed TS does not involve a significant reduction in the margin of safety.

Therefore, the staff proposed to determine that the application for amendment involve no significant hazards consideration.

*Local Public Document Room location:* Athens Public Library, South Street, Athens, Alabama 35611.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

*NRC Assistant Director:* Suzanne Black

**Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee**

*Date of amendment requests:* December 22, 1988 (TS 88-34)

*Description of amendment requests:* The Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant (SQN) Units 1 and 2 Technical Specifications (TS). The changes are to remove inappropriate testing requirements associated with the auxiliary building gas treatment system (ABGTS). Surveillance requirements for ABGTS activation exist in Section 7, "Plant Systems," and Section 9, "Refueling Operations," of the TS. These requirements are TS 4.7.8.d.2 and 4.9.12.d.2. The ABGTS surveillance requirements from Section 7 are applicable during Modes 1, 2, 3, and 4; and the ABGTS surveillance requirements from Section 9 are applicable whenever irradiated fuel is in the spent fuel storage pool. The ABGTS test requirement associated with the auxiliary building ventilation monitoring systems (ABVMS) would be deleted from both Sections 7 and 9. The ABGTS test requirement associated with a phase A containment isolation signal would be deleted in Section 9 but would remain in Section 7. The ABGTS test requirement associated with the high radiation signal from the spent fuel pool monitors would be deleted in Section 7 but would remain in Section 9.

A new requirement has been added to Table 4.3.9 of Specification 3.3.3.10, "Radioactive Gaseous Effluent Monitoring," to demonstrate automatic isolation of the auxiliary building ventilation exhaust any time the ABVMS (radiation monitor) indicates measured levels above the alarm/trip setpoint. This requirement is currently in Sections 7 and 9 as part of the ABGTS actuation test for a high radiation signal from the ABVMS but would be deleted from Sections 7 and 9. Also, two typographical errors in the Unit 1 Specification 3.3.3.10 have been corrected.

*Basis for proposed no significant hazards consideration determination:* TVA provided the following information on the ABGTS which is part of the auxiliary building ventilation system (ABVS) in its submittal on the proposed TS changes.

The ABVS is described in section 9.4.2 of the Final Safety Analysis Report (FSAR. This system serves all areas of the auxiliary building including the radwaste areas and the fuel handling areas. It is designed to maintain acceptable environmental conditions for personnel access, for protection of

mechanical and electrical equipment and controls, and to limit the release of radioactivity to the environment.

The current ABGTS surveillance requirements impose appropriate actions under certain conditions. For example, should the single auxiliary building vent radiation monitor become inoperable, ABGTS must be declared inoperable and consequently a plant shutdown is required by Specification 3.0.3. Similar effluent monitoring technical specifications allow continued reactor operation with vent path sampling. Similar inappropriate action applies to inoperability of the fuel pool monitors while in modes 1, 2, 3, and 4. An inoperable fuel pool radiation monitor, while in these modes, would require that ABGTS be declared inoperable and could possibly result in a plant shutdown. The more appropriate action is to limit crane operation with loads over the spent fuel pit as specified in Technical Specification 3.9.12.

Another inappropriate action would exist in Mode 6 with the Phase A containment isolation signal becoming inoperable. Crane operation with loads over the spent fuel pit may be prohibited when, in fact, the loss of coolant accident (LOCA) mitigation equipment is not required. The proposed technical specification change will alleviate these problems by assigning each ABGTS surveillance requirement to its proper accident signal.

Deletion of the ABGTS actuation surveillance requirement from the high radiation signal in the auxiliary building vent will significantly reduce the amount of surveillance work, system alignment, and unnecessary operator interface required to perform the test. The current test addresses all aspects of the ABGTS function: ABGTS filter train start, auxiliary building isolation, ABSCE [auxiliary building secondary containment enclosure] establishment, and accident mode room cooling.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed technical specification change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The ABGTS is an engineered safety features system required to function postaccident. The signal for ABGTS initiation on high radiation in the auxiliary building vent is not included in any accidents evaluated by the safety analysis report. Deletion of the subject test requirement has no impact on the function of the ABGTS or the radiation monitor itself. Deletion of [the surveillance requirements associated with] the phase A containment isolation signal and the fuel handling area radiation monitor signal is consistent with assumptions made in the accident analysis. The typographical corrections are strictly administrative and do not alter any intent of the specification. Therefore, there is no change in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. High radiation in the auxiliary building vent initiates an ABGTS start and isolation of the auxiliary building. For any accident where ABGTS is assumed, the start signal would be provided by redundant channels in the initiation logic, all of which are safety-grade, trained redundant instruments. The phase A signal and the fuel handling area signal are required operable as assumed in the FSAR. The typographical corrections are strictly administrative. Thus, the possibility of a new or different kind of accident has not been created.

(3) Involve a significant reduction in a margin of safety. No change is being made to the hardware or function of ABGTS or the auxiliary building vent monitor. The actual testing of the phase A signal and the fuel handling area signal is not changed. Because of the test signal being deleted is backed up by redundant channels, which are safety-grade, trained, and therefore more reliable, no margin of safety is reduced. The typographical corrections are strictly administrative.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

*Local Public Document Room location:* Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

*NRC Assistant Director:* Suzanne Black

**Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin**

*Date of amendment request:* November 29, 1988, supplemented November 30, 1988.

*Description of amendment request:* The amendment would reflect personnel changes, correct typographical errors, and make minor word changes to clarify the intent of Technical Specifications (TS).

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751) of actions that are considered not likely to involve significant hazards considerations. Example (i) of this guidance states: "a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

The proposed changes are directly related to the example. They do not involve a decrease in management support or involvement in the Kewaunee Plant. Engineering and technical support supplied by the plant and corporate staff would not be decreased as a result of the changes. The proposed changes are purely administrative and editorial.

Based on the above, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

*Local Public Document Room location:* University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

*Attorney for licensee:* David Baker, Esq. Foley and Lardner, P.O. Box 2193 Orlando, Florida 31082.

*NRC Project Director:* John N. Hannon.

## PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

**Indiana Michigan Power Company, Docket No. 50-315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan**

*Date of amendment request:* August 9, 1988

*Brief description of amendment:* The proposed license amendment would allow a one-time extension of the

surveillance intervals for certain surveillances normally performed with the unit shutdown. The extensions involve:

1. ice basket weighing;
2. ice condenser flow passage inspections;
3. ice condenser inlet door testing; and
4. resistance temperature detector calibrations.

*Date of publication of individual notice in* **Federal Register:** January 17, 1989 (54 FR 1806)

*Expiration date of individual notice:* February 16, 1989.

*Local Public Document Room location:* Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

**Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut**

*Date of amendment request:* November 15, 1988

*Brief Description of amendment request:* The proposed amendment would change the Technical Specifications to reflect a revised safety analysis that includes the use of fuel designed and fabricated by Advanced Nuclear Fuels Corporation.

*Date of publication of individual notice in* **Federal Register:** January 24, 1989 (54 FR 3545)

*Expiration date of individual notice:* February 23, 1989.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

## NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

**Arizona Public Service Company, et al., Docket No. STN 50-528 Palo Verde Nuclear Generating Station, Unit 1 Maricopa County, Arizona**

*Date of application for amendment:* July 25, 1988

*Brief description of amendment:* The Amendment revises TS Section 3.3.2, Table 3.3-5, "Engineered Safety Features Response Times" by clarifying the response time requirements for radiation detectors associated with Control Room Essential Filtration Actuation. Minor editorial corrections have also been incorporated in TS Section 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation."

*Date of issuance:* December 28, 1988

*Effective date:* December 28, 1988

*Amendment No.:* 41

*Facility Operating License No. NPF-41:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** September 21, 1988 (53 FR 36666). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1988.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

**Arizona Public Service Company, et al, Docket No. STN 50-528, Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona**

*Date of application for amendment:* December 23, 1988

*Brief description of amendment:* The amendment revised Surveillance Requirement 4.1.3.1.2 to allow continued operation of PVNGS Unit 1, until the end of the current cycle (approximately 3 months), without conducting any further exercise tests of control element assembly (CEA) No. 64.

*Date of issuance:* January 13, 1989

*Effective date:* January 13, 1989

*Amendment No.:* 42

*Facility Operating License No. NPF-41:* Amendment changed the Technical Specifications.

*Public comments requested as to proposed no significant hazards consideration:* Yes (54 FR 75 dated January 3, 1989). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by January 18, 1989, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1989, which makes a final no significant hazards consideration determination.

*Attorney for Licensee:* Arthur C. Gehr, Esq., Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

*Local Public Document Room location:* Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

**Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Unit Nos. 1 and 2, LaSalle County, Illinois**

*Date of application for amendments:* March 6, 1987 supplemented January 6 and March 9, 1988 and January 6, 1989.

*Description of amendments:* These amendments revise the LaSalle County Station, Units 1 and 2 Technical Specifications by removing all references to the ammonia detector monitoring instrument system.

*Date of issuance:* January 18, 1989

*Effective date:* January 18, 1989

*Amendment Nos.:* 61 and 42

*Facility Operating License Nos. NPF-11 and NPF-18.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 8, 1987 (52 FR 11357). The supplemental submittals by the licensee provided further revisions to the initial probability analysis, but did not change the staff's initial determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 18, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

**Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois**

*Date of application for amendments:* September 16, and November 18, 1988

*Brief description of amendments:* Revise Main Steam Line Radiation Monitors trip setpoint for reactor protection system from seven times normal full power background to 15 times. This is necessary to provide for implementation of Hydrogen Water Chemistry control.

*Date of issuance:* January 18, 1989

*Effective date:* January 18, 1989

*Amendment Nos.:* 112 and 108

*Facility Operating License Nos. DPR-29 and DPR-30.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 14, 1988 (53 FR 50321). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 18, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

**Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois**

*Date of application for amendments:* November 16, 1988

*Brief description of amendments:* Revises surveillance interval of Main Steam Isolation Valves local leak rate testing from 18 months to each fuel cycle, not to exceed once every 24 months.

*Date of issuance:* January 19, 1989

*Effective date:* January 19, 1989

*Amendment Nos.:* 113 and 109

*Facility Operating License Nos. DPR-29 and DPR-30.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 14, 1988 (53 FR 50322). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 19, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

**Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut**

*Date of application for amendment:* November 7, 1988

*Brief description of amendment:* The amendment revises Table 7.2-1, "Radioactive Liquid Effluent Monitoring Instrumentation" and Table 8.2-1, "Radioactive Liquid Effluent Monitoring Instrumentation Surveillance Requirement" by providing the respective radiation monitors identification label with the previous identified radiological monitoring locations.

*Date of Issuance:* January 24, 1989

*Effective date:* January 24, 1989

*Amendment No.:* 111

*Facility Operating License No. DPR-61.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 24, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

**Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan**

*Date of application for amendment:* June 24, 1988.

*Brief description of amendment:* This amendment revises the Fermi-2 Technical Specifications to remove the organization charts from the Technical Specifications following the guidance provided in NRC Generic Letter 88-06. The amendment also makes various administrative changes to Section 6.0 of the Technical Specifications.

*Date of issuance:* January 24, 1989

*Effective date:* January 24, 1989

*Amendment No.:* 30

*Facility Operating License No. NPF-43.* The amendment revises the Technical Specifications

*Date of initial notice in* **Federal Register:** August 10, 1988 (53 FR 30129). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 24, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

*Local Public Document Room location:* Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

**Duke Power Company, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina**

*Date of application for amendments:* September 3, 1987, as supplemented February 27, September 9, and September 20, 1988.

*Brief description of amendments:* The amendments revised the Technical Specifications to replace the values of cycle-specific parameter limits with a reference to the Core Operating Limits Report which contains the values of those limits.

*Date of issuance:* January 26, 1989

*Effective date:* January 26, 1989

*Amendment Nos.:* 172, 172, and 169

*Facility Operating License Nos. DPR-38, DPR-47, and DPR-55.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 14, 1988 (53 FR 50325). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 26, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

**Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania**

*Date of application for amendment:* November 12, 1986, supplemented by letter dated November 17, 1988

*Brief description of amendment:* The amendment revises the visual inspection requirements for snubbers and the service life monitoring requirements.

*Date of issuance:* January 23, 1989

*Effective date:* January 23, 1989

*Amendment No.* 135

*Facility Operating License No. DPR-66.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** March 25, 1987 (52 FR 9567). The November 17, 1988 submittal provided additional clarifying information and did not change the determination of the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 23, 1989

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania**

*Date of application for amendment:* August 30, 1988, supplemented by letter dated November 10, 1988

*Brief description of amendment:* The amendment changes the Technical

Specifications to allow storage of fuel and spent fuel assemblies up to enrichment of 4.85 weight-percent U-235.

*Date of issuance:* January 17, 1989

*Effective date:* January 17, 1989

*Amendment No.* 12

*Facility Operating License No. NPF-73.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** October 5, 1988 (53 FR 39168). The November 10, 1988 submittal provided additional clarifying information and did not change our initial determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 17, 1989

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia**

*Date of application for amendment:* December 6, 1988

*Brief description of amendment:* The amendment modified the Technical Specifications to raise the minimum diesel generator voltage for tests not requiring circuit breaker closure to ensure that the generator "ready-to-load" condition is met during surveillance.

*Date of issuance:* January 23, 1989

*Effective date:* January 23, 1989

*Amendment No.:* 16

*Facility Operating License No. NPF-68:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 15, 1988 (53 FR 50480). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 23, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

**GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of application for amendment:* November 30, 1988, as supplemented by letter dated December 12, 1988

*Brief description of amendment:* The amendment deletes the requirement in Technical Specification, Table 3.1.1.A.6 for a Low Condenser Vacuum Scram when the Reactor Mode Switch is in the refuel position. This change clarifies the Technical Specification to allow Rod Scram time testing to be performed while shutdown. The amendment also revises Technical Specification, Table 3.1.1.C.1 to add a reference to note "11" in the startup mode for the High Reactor Pressure Isolation Condenser initiative function. This change is necessary to install new analog pressure sensors during refueling outage 12R.

*Date of Issuance:* January 13, 1989

*Effective date:* January 13, 1989

*Amendment No.:* 131

*Provisional Operating License No. DPR-16.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 12, 1988 (53 FR 49943). The December 12, 1988 submittal corrected a Technical Specification page and did not change the determination of the initial notice. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 13, 1989

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine**

*Date of application for amendment:* March 5, 1987 as clarified by letters dated October 11, 1988 and November 1, 1988.

*Brief description of amendment:* This amendment to the license updates the physical security plan.

*Date of issuance:* January 23, 1989

*Effective date:* January 23, 1989

*Amendment No.:* 110

*Facility Operating License No. DPR-36.* Amendment revised a license condition.

*Date of initial notice in* **Federal Register:** (53 FR 50331) December 14, 1988. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 23, 1989

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

**Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York**

*Date of application for amendment:* January 14, 1988

*Brief description of amendment:* To eliminate a contradiction between Technical Specification 3.1.1.b(3)(b) and Specification 3.1.1.e and to require verification in Specification 3.1.1.b(3)(b) that the control rod program is being followed appropriately.

*Date of issuance:* January 26, 1989

*Effective date:* January 26, 1989

*Amendment No.:* 103

*Facility Operating License No. DPR-63:* Amendment revises the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 14, 1988 (53 FR 50332). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 26, 1989

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

**Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of application for amendment:* August 11, 1988

*Brief description of amendment:* The amendment changes Technical Specification (TS) 4.6.1.2, "Containment Leakage," to allow the use of the "mass point" methodology, per ANSI/ANS 56.8-1981 and 10 CFR Part 50, Appendix J, Section III. A(3), in addition, or as an alternative to, the "total time" methodology currently specified in the TS.

*Date of issuance:* January 17, 1989

*Effective date:* January 17, 1989

*Amendment No.:* 30

*Facility Operating License No. NPF-49.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** September 21, 1988 (53 FR 3662). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 17, 1989

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

**Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania**

*Date of application for amendment:* November 1, 1988

*Brief description of amendment:* The amendment changed the Technical Specifications to reflect NRC approved modifications to certain containment penetrations to permit foward leak testing of associated isolation valves and testing of valve packing leakage.

*Date of issuance:* January 18, 1989

*Effective date:* 60 days after date of issuance

*Amendment No.* 15

*Facility Operating License No. NPF-39.* This amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 14, 1988 (53 FR 50334). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 18, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

**Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of application for amendments:* January 19, 1988

*Brief description of amendments:* These amendments changed the Technical Specifications and surveillance requirements applicable to containment hydrogen analyzers.

*Date of issuance:* January 25, 1989

*Effective date:* As of the date of issuance with implementation to be completed within 30 days of the date of issuance, for both units.

*Amendment Nos.* 90 and 65

*Facility Operating License Nos. DPR-70 and DPR-75.* These amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** August 24, 1988 (53 FR 32295). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 25, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

**Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California**

*Date of application for amendment:* March 20, 1987, as supplemented July 22, 1988.

*Brief description of amendment:* The amendment allows a seal leakage test to be performed in lieu of a full pressure test on the containment air lock when no maintenance has been performed on the air lock that could affect sealing capability of the air lock. The amendment also makes two editorial clarifications to the testing requirements on air lock doors.

*Date of issuance:* January 24, 1989

*Effective date:* This license amendment is effective the date of issuance and must be fully implemented no later than 30 days from date of issuance.

*Amendment No.:* 118

*Provisional Operating License No. DPR-13:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** September 7, 1988 (53 FR 34611). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 24, 1989.

*No significant hazards consideration comments received:* No comments.

*Local Public Document Room location:* General Library, University of California, Post Office Box 19557, Irvine, California 92713.

*NRC Project Director:* George W. Knighton

**Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

*Date of application for amendments:* September 29, 1988 (TS 255)

*Brief description of amendments:* The amendments modify Technical Specifications Sections 3.6.H and 4.6.H to permit removal of references to seismic restraints and supports.

*Date of issuance:* January 19, 1989

*Effective date:* January 19, 1989, and shall be implemented within 60 days

*Amendments Nos.:* 163, 160, and 134

*Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68:* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** October 19, 1988 (53 FR 41001). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 19, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Athens Public Library, South Street, Athens, Alabama 35611.

**Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

*Date of application for amendments:* August 4, 1988 (TS 252)

*Brief description of amendments:* These amendments add Technical Specifications Limiting Conditions for Operation and Surveillance Requirements for the Anticipated Transients Without Scram (ATWS) - Recirculation Pump Trip (RPT).

*Date of issuance:* January 26, 1989

*Effective date:* January 26, 1989, and shall be implemented within 60 days

*Amendments Nos.:* 164, 161, 135

*Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68:* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 30, 1988 (53 FR 48336). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 26, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Athens Public Library, South Street, Athens, Alabama 35611.

**Tennessee Valley Authority, Docket No. 50-327, Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee**

*Date of application for amendments:* September 21, 1988 as supplemented by letter dated October 25, 1988 (TS 88-28)

*Brief description of amendments:* The amendment modifies the Sequoyah Nuclear Plant, Unit 1 Technical Specifications. The change revises the limiting condition for operation 3.2.2 and surveillance requirement 4.2.2 to reflect a reduction in the heat flux hot channel factor limit from 2.237 to 2.15. The limit shall be 2.15 instead of 2.237 until an analysis in conformance with 10 CFR 50.46, using plant operating conditions and showing that a limit of 2.237 satisfies the requirements of 10 CFR 50.46(b), has been completed and submitted to NRC.

*Date of issuance:* January 23, 1989

*Effective date:* January 23, 1989

*Amendment No.:* 95

*Facility Operating Licenses Nos. DPR-77 and DPR-79.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** October 5, 1988 (53 FR 39178). The Commission's related evaluation of

the amendment is contained in a Safety Evaluation dated January 23, 1989

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

**Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of application for amendments:* September 30, 1988

*Brief description of amendments:* The amendments allow an increase in the steam generator tube plugging from 7 percent and 15 percent to 18 percent. Also, the maximum FQ limit is increased from 2.15 to a value of 2.19.

*Date of issuance:* January 17, 1989

*Effective date:* January 17, 1989

*Amendment Nos.:* 114 and 97

*Facility Operating License Nos. NPF-4 and NPF-7.* Amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: November 16, 1988 (53 FR 46161). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 17, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

## NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By March 10, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be

entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

**Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit 2, Berrien County, Michigan**

*Date of application for amendment:* October 14, 1988

*Brief description of amendment:* The amendment increases the shutdown margin requirements for operational Modes 4 and 5. The revised requirements are based on an analysis of a potential boron dilution transient.

*Date of issuance:* January 13, 1989

*Effective date:* January 13, 1989

*Amendment No.:* 106

*Facility Operating License No. DPR-74.* Amendment revises the Technical Specifications.

*Public comments requested as to proposed no significant hazards consideration:* No.

*Comments received:* No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated January 13, 1989

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*Local Public Document Room location:* Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

*NRC Project Director:* Theodore Quay, Acting.

**Washington Public Power Supply System, et al., Docket No. 50-397, Nuclear Project, No. 2, Benton County, Washington**

*Date of application for amendment:* December 21, 1988

*Brief description of amendment:* The amendment revises testing requirements for the 4.16 KV emergency bus under voltage trip functions set forth in WNP-2 Technical Specification Tables 3.3.3-1 and 4.3.3.1-1. The monthly functional channel test for degraded voltage protection of the Division 1 and 2 buses will include the sensor and its associated 5 second delay relay but will no longer include the secondary 3 second delay relays. The Division 3 protection system will be tested at an interval not to exceed 18 months instead of monthly.

*Date of issuance:* January 6, 1989

*Effective date:* January 6, 1989

*Amendment No.:* 64

*Facility Operating License No. NPF-21:* Amendment revised the Technical Specifications.

*Public Comment requested as to proposed no significant hazards consideration:* No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Washington, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated January 6, 1989.

*Attorneys for licensee:* Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and Mr. G. E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

*Local Public Document Room location:* Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

*NRC Project Director:* George W. Knighton

Dated at Rockville, Maryland, this 2nd day of February, 1989.

For the Nuclear Regulatory Commission

**Gus C. Lainas,**

*Acting Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation*

[Doc. 89-2837 Filed 2-7-89; 8:45 am]

BILLING CODE 7590-01-D

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**[Docket No. 50-155, License No. DPR-06, EA 87-80]**

## Consumers Power Co., Big Rock Point Nuclear Plant; Order Imposing Civil Monetary Penalty

I

Consumers Power Company (licensee) is the holder of Operating License No. DPR-06 issued by the Nuclear Regulatory Commission (NRC/Commission) on August 30, 1962. The license authorizes the licensee to operate the Big Rock Point Nuclear Plant, in accordance with the conditions specified therein.

II

A special safety inspection of the licensee's activities was conducted during the period September 15–19, 1986. The results of the inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the licensee by letter dated September 22, 1988. The Notice stated the nature of the violation, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violation. The licensee responded to the Notice by two letters dated December 1, 1988. In its response, the licensee admitted the facts stated in the violation, but argued that the guidance of the NRC's Modified Enforcement Policy was unduly punitive and not equitably applied when the specifics of the Big Rock Point situation, the complexity of the issues and the size of the plant are considered. The licensee requested that the Commission reconsider the amount of the proposed fine.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the Deputy Executive Director for Regional Operations has determined, as set forth in the Appendix to this Order, that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil monetary penalty in the amount of One Hundred and Eighty-Seven Thousand Five Hundred Dollars ($187,500) within 30 days of the date of this Order by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and should be addressed to the Director of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, DC 20555, with a copy to the Regional Administrator, Region III, 799 Roosevelt Road, Glen Ellyn, Illinois, 60137, and a copy to the NRC Resident Inspector, Big Rock Point Nuclear Plant.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made at that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be: whether the proposed civil penalty should be imposed in whole or in part.

For the Nuclear Regulatory Commission.

**James M. Taylor,**

*Deputy Executive Director for Regional Operations.*

Dated at Rockville, Maryland this 31st day of January 1989.

**Appendix—Evaluation and Conclusion**

On December 1, 1988, Consumers Power Company (licensee) replied in two letters to the NRC's September 22, 1988, Notice of Violation and Proposed Imposition of Civil Penalty (notice) regarding environmental qualification (EQ) of electrical equipment admitting that the facts stated in the violations are substantially correct, but raising objections to the NRC's conclusions that a civil penalty was warranted. The licensee states that the deficiencies in the Notice were identified and discussed with the NRC prior to the deadline of November 30, 1985 for compliance with 10 CFR 50.49 and that required corrective action was implemented. In addition, the licensee contends that the amount of the proposed civil penalty is excessive for the significance of the deficiencies and the size of the facility and requests that the Commission reconsider the amount of the proposed fine. The violation is restated below followed by a summary of the licensee's response and the NRC's evaluation and the conclusion.

*1. Restatement of Violation*

10 CFR 50.49(f) requires each item of electrical equipment important to safety be environmentally qualified by testing and/or analysis.

10 CFR 50.49(k) specifies that requalification of electric equipment important to safety is not required if the Commission has previously required qualification in accordance with "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors," November 1979 CDOR Guidelines).

DOR Guidelines, Section 5.2.2, states that type tests should only be considered valid for equipment identical in design and material construction to the test specimen and any deviations should be evaluated as part of the qualification documentations.

Contrary to the above, Consumers Power Company failed to qualify equipment important to safety by appropriate testing and/or analysis as evidence by the following examples:

a. Limitorque Motor Actuator MO–7068, an item of electrical equipment important to safety, was removed from service after 13 years of operation and was subjected to a Loss of Coolant Accident (LOCA) test on April 23, 1975. This actuator was then reinstalled and returned to service in the containment spray system without being qualified by testing and/or analysis to evaluate aging and degradation due to the LOCA test. This condition existed from November 30, 1985 until February 13, 1987, at which time Limitorque Motor Actuator MO–7068 was replaced.

b. Butyl rubber and polyethylene insulated cables, items of electrical equipment important to safety, which had not been environmentally qualified by testing and/or analysis, were installed in various Class 1E circuits inside containment. This condition existed from November 30, 1985 until June 30, 1987, at which time the unqualified cables were replaced.

*2. Summary of Licensee's Response*

The licensee admits that the facts stated in the violation are substantially correct. However, Consumers Power Company claims that, prior to the EQ deadline, the qualification concerns had been identified and discussed with the NRC and that the licensee had implemented actions to satisfy the concerns. Since the NRC had not notified the licensee to the contrary, the licensee had assumed the concerns had been satisfactorily addressed and its equipment was qualified.

Consumers Power Company also argues that a fine of the magnitude proposed is unreasonable for a generating plant the size and age of Big Rock Point. In fact, on a per megawatt basis, the licensee argues that is the largest fine the Commission has ever proposed for a licensee. The licensee also argues that the safety significance of the examples in the Notice do not warrant a fine in the amount proposed. In summary, the licensee states that, due to the circumstances that apply to the specifics of the Big Rock Point situation and the complexity of the issues involved, the guidance of the modified Enforcement Policy is unduly punitive and has not been equitably applied. The licensee contends that the amount of the proposed civil penalty is excessive and requests that the Commission reconsider the amount of the proposed fine.

*3. NRC Evaluation of Licensee's Response*

The NRC staff believes the licensee had no reasonable basis for assuming that the NRC had approved its actions to satisfy the identified EQ concerns. As evidenced in various NRC documents, the NRC did identify the document the deficiencies stated in the Notice prior to the EQ deadline (as early as 1983) and in each case identified the need for replacement or new testing and analysis of the unqualified equipment. The licensee's corrective actions were not presented to the NRC until the September 1986 Region III EQ Inspection. During this

inspection, the NRC again informed the licensee that the actuator and cables in question were unqualified. The licensee took an unreasonable length of time to correct the identified deficiencies and numerous meetings had to be held between the NRC and the licensee to prompt the licensee and ensure that it took adequate corrective action.

With regard to Limitorque Actuator MO-7068, the licensee claims that the NRC and its consultant, Franklin Research Institute, were aware that Actuator MO-7068 had been tested under LOCA conditions and returned to service after being inspected and refurbished "where needed." Since the NRC had raised no further concerns, the licensee assumed the actuator was qualified for intended service.

The Franklin Research Center Technical Evaluation Report (TER), February 18, 1983, Page 3A, identified Actuator MO-7068 as Category IB, "Equipment Qualification Pending Modification." The summary section of the TER identified the corrective action as "Replace or Rebuild and Qualify."

In its conclusion, the TER stated, "radiation and thermal aging qualification testing has not been performed for this type actuator." The TER also stated this conclusion for other type Limitorque Model SMA-00 actuators.

In the discussion, the TER acknowledged that the Actuator MO-7068 had at one time been subjected by the licensee to a LOCA. However, that test was considered an adequate basis only for interim operation for Type SMA-00 actuators until they were replaced or rebuilt. Further, the TER did not state or imply that the LOCA-tested actuator, i.e., MO-7068, could be returned to service without refurbishment of degraded parts. The licensee, however, returned the actuator to service after the LOCA test without any evidence of refurbishing EQ-related components. Neither the NRC nor Franklin was aware that the actuator had been returned to service without the refurbishing of degraded parts. Based on these considerations, the licensee's claim that the actuator was qualified based on lack of NRC notification to the contrary is not supported.

With regard to the Polyethylene and Butyl Rubber insulated cables, the licensee claims that, in lieu of LOCA-testing the cables, it purchased a test report for $50,000 and qualified the cables by similarity. The licensee assumed the cables were qualified since the NRC had raised no further concern.

The February 18, 1983 Franklin TER identified Polyethylene and Butyl rubber cables as those for which equipment qualification had not been established. In June 1984, NRR identified these cables as unqualified during an EQ inspection. On July 25, 1984, the NRC granted the licensee an extension on the schedule for qualification of these cables until March 31, 1985. Finally, in September 1986, the Region III inspectors identified those cables as unqualified and required replacement or qualification by testing. Despite all these notifications, the licensee did not take timely corrective action. During an April 13, 1987 meeting between the Consumers Power Company and NRC staffs, the licensee committed to replace all Polyethylene and Butyl rubber cable in question. This commitment was documented in an April 15, 1987 Confirmatory Action Letter issued to the licensee by the NRC Region III office.

The licensee claims it spent $50,000 to purchase test reports of similar cables because 10 CFR 50.49 permits qualification by similarity. The licensee claims the NRC was aware of its approach to qualify by similarity and had raised no concerns. The NRC agrees that a licensee may qualify equipment by similarity as this clearly allowed in the regulations. However, when the NRC inspection was conducted, the tests discussed in the purchased reports were found to be deficient in that they did not test similar or identical cable. The NRC had not reviewed the adequacy of these reports until the Region III inspection, at which time the reports were found clearly inadequate for applications at Big Rock, for the reasons given in the Notice.

The licensee claims the NRC SER of November 15, 1985, further confirmed the qualification of these cables because there were no remarks to the contrary. The NRC SER, however, only addressed the approval of the licensee's general approach to resolving outstanding EQ deficiencies, not the adequacy of the resolution of each specific issue. The corrective actions were scheduled to be reviewed during the NRC Region III inspection. Based on the above consideration, the licensee's claim that the cables were qualified by similarity based on lack of NRC notification to the contrary, is not supported.

With regard to the licensee's argument concerning the safety significance of the violation, the NRC staff, under the Modified EQ Policy Enforcement Policy, considers violations of EQ requirements to be safety significant because the electrical equipment required to be qualified are those which are important to safety. This is a case in which it appears that the components were properly categorized as important to safety. If the licensee cannot demonstrate that such components are qualified, for enforcement purposes, a significant violation has occurred. The only exceptions to this practice include those cases in which a documentation deficiency of a minor nature exists which is readily correctable. In this case, the licensee failed to have adequate documentation and would have needed to develop extensive additional information to demonstrate qualification. Therefore, the NRC staff concluded a significant violation existed.

While Consumers Power Company does operate a small reactor, Big Rock Point's size alone is not a sufficient justification for mitigation of a civil penalty. The facility is categorized as a commercial power reactor and as such is subject under the Modified EQ Enforcement Policy, as under the "General Statement of Policy and Procedure for NRC Enforcement Action", 10 CFR Part 2 Appendix C, to the same base civil penalty as all other commercial power reactors. The NRC carefully considered whether it would be advisable to assess lesser civil penalties for smaller commercial power reactors and it was concluded that the inherent risks associated with any size commercial nuclear plant are such that a significant deterrent is needed to motivate a licensee to implement and maintain programs for detection and correction of problems that may constitute or lead to violations of regulatory requirements.

For these reasons, the NRC has concluded that mitigation of the civil penalty is not warranted.

*3. Conclusion*

The NRC has concluded that this violation occurred as stated and there is no adequate basis for withdrawing the violation or reducing the amount of the civil penalty. Consequently, the proposed civil penalty in the amount of $187,500 should be imposed.

[FR Doc. 89-2977 Filed 2-7-89; 8:45 am]
BILLING CODE 7590-01-M

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[Docket No. 50-334]

## Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co., Beaver Valley Power Station, Unit No. 1; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Duquesne Light Company, (licensee) an amendent to Facility Operating License No. DPR-66, issued to the licensee for operation of the Beaver Valley Power Station, Unit No. 1, located in Beaver County, Pennsylvania. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on July 15, 1987 (52 FR 26586).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to clarify certain requirements concerning reactor coolant system boron dilution.

The licensee has informed the staff that a revised request will be submitted to address the staff's concerns. The revised submittal is still outstanding. Therefore, the staff decides to deny the amendment request in order to conserve staff resources. This denial will not constitute a prejudice against the licensee's revised submittal which will be treated as a new request.

The licensee was notified of the Commission's denial of the proposed TS change by a letter dated by March 10, 1989, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel-Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esquire and Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated April 30, 1987, and (2) the Commission's letter to the licensee dated.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliqquippa, PA 15001. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 2nd day of February,1989.

For the Nuclear Regulatory Commission.

**Peter D. Tam,**

*Senior Project Manager, Project Directorate I-4, Division of Reactor Projects O/II, Office of Nuclear Regulation.*

[FR Doc. 89-2978 Filed 2-7-89; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-260]**

## Tennessee Valley Authority; Withdrawal of Application for Amendment to Facility Operating License DPR-52

The United States Nuclear Regulatory Commission (the Commission) has granted the request of the Tennessee Valley Authority (the licensee) to withdraw its August 12, 1988 application for amendment, technical specification (TS) change 249, to Facility Operating License DPR-52 for the Browns Ferry Nuclear Plant, Unit 2 located in Decatur, Alabama. TS-249 will be replaced by a new request for changes.

This amendment would have modified the TS by revising the limiting conditions for operation and the surveillance requirements for equipment required by 10 CFR Part 50, Appendix R safe shutdown.

The Commission issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 19, 1988 (53 FR 4100). By letter dated January 17, 1989, the licensee withdrew the proposed change regarding Appendix R safe shutdown.

For further details with respect to this action, see the application for amendment dated August 12, 1988 and the licensee's withdrawal dated January 17, 1989. These documents are available for public inspection at the Commission's Public Document Room, 2121 L Street NW., Washington, DC and at the Athens Public Library, South Street, Athens, Alabama.

Dated at Rockville, Maryland this 1st day of February 1989.

For the Nuclear Regulatory Commission.

**Suzanne Black,**

*Assistant Director for Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 89-2979 Filed 2-7-89; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-483]**

## Union Electric Co., Callaway Nuclear Power Plant; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-30, issued to Union Electric Company, for operating of the Callaway Plant located in Callaway County, Missouri.

The amendment would change Technical Specification (TS) 4.9.8.1, 4.9.8.2, and the associated Bases to reduce the required Residual Heat Removal (RHR) system flow rate during Mode 6 operation; change TS 4.4.9.3.2, 4.5.2.d, and the associated Bases to delete the RHR autoclosure interlock function; and change TS 3.5.4 and the associated Bases to allow safety injection pumps to be energized with the head on and with water level not above the top of the reactor vessel flange, in Modes 5 and 6.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 10, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitoner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifiteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with

the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Indentification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely fillings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its intent to make a no significant hazards consideration finding in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 6, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Dated at Rockville, Maryland, this 31st day of January, 1989.

For the Nuclear Regulatory Commission.

**Timothy G. Colburn,**

*Acting Director, Project Directorate III-3, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 89-2980 Filed 2-7-89; 8:45 am]

BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-26505; Filed No. SR-DTC-89-3]**

## Self-Regulatory Organizations; Filing of Proposed Rule Change; The Depository Trust Co.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 30, 1989, The Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Depository Trust Company ("DTC") is filing herewith a proposed rule change relating to an International Institutional Delivery System. By order dated December 20, 1988, the Commission approved the proposed rule change on a pilot basis. DTC now seeks approval to open the program to all of its Participants and to other registered clearing agencies.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose for the proposed rule change is to provide information which is intended to increase efficiency in settling many institutional trades executed in foreign (non-U.S. or Canadian) securities. The proposed rule change would add an international capability to DTC's existing Institutional Delivery system that would permit users to accept foreign security trade confirmation data from broker-dealers, distribute ID confirmations to international investors and other interested parties, provide for trade affirmation, and transmit deliver/receive instructions to those concerned, including foreign sub-custodians. Trade settlement would not take place in DTC, but between foreign sub-custodians.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC since the proposed rule change will increase efficiency in settling many trades in foreign securities.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The propose rule change was developed at the request of Participants and securities industry organizations. An International ID steering committee composed of industry representatives developed solutions for the issues involved. DTC requested comments on the proposed rule change by memorandum dated August 26, 1988. One comment letter was received which endorsed the proposed rule change. The proposed rule change has been operating as a pilot program with limited participation for the past month. Based upon informal conversations with pilot Participants we understand that no operational difficulties have been encountered. *See* Securities Exchange Act Release Nos. 26374 (December 20, 1988), 53 FR 52283, and 26492 (January 26, 1989).

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the data of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number SR-DTC-89-03 and should be submitted by March 1, 1989.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: January 31, 1989.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-2830 Filed 2-7-89; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-26515; File No. SR-NYSE-88-08]**

## Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 28, 1988, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed amendment to Rule 607 would allow the Exchange to decrease the number of arbitrators required in a matter exceeding $500,000 making such matters economically and administratively more efficient. The proposed amendment to Rule 601 would increase the monetary limit in a simplified arbitration to $10,000 and state the fee schedule applicable to this increased amount. Note that this increased limit does not change the filing fee appropriate for a matter. The proposed amendment to Rule 630 would allow the Exchange to increase from $25 to $100 the amount of a party's filing fee retained by the Exchange if a matter has been withdrawn or settled prior to the commencement of the first session. The increased fee retention would better distribute arbitration costs amongst its users.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below of the most significant aspect of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(a) The purpose of the proposed amendments to Rule 607, which would provide for no less than three arbitrators to hear a matter involving a public customer or non-member where the amount in controversy exceeds $500,000, is to further simplify and expedite the arbitration process in a manner which does not alter the quality of an Exchange arbitration and to keep arbitration costs down. Using three arbitrators instead of five will speed up the rescheduling of adjourned or continued arbitrations. It also saves honorarium and duplicative paperwork costs.[1]

The purpose of the proposed amendment to Rule 601, which would increase the monetary limit of the simplified arbitration form controversies not in excess of $5,000 to controversies not in excess of $10,000, is to enable more public customers to benefit from the use of the simplified arbitration procedure and to help keep arbitration costs down.

The purpose of the proposed amendment to Rule 630, which would increase the amount of money retained by the Exchange when a matter is settled or withdrawn from $25 to $100, is to better distribute the costs of arbitration among its users.

(b) The proposed changes are consistent with section 6(b)(5) of the Act in that they promote just and equitable principles of trade by insuring that members and member organizations and the public have an impartial forum for the resolution of their disputes.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition.

*C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has neither solicited nor received comments on the proposed rule changes.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding (ii) as to which the self-regulatory

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[1] In a letter to Commission staff, the NYSE stated that its proposal to change the number of arbitrators used for large cases from five to three is the result of the Exchange's difficulty in administering arbitration with five arbitrators because of scheduling difficulties. The Exchange also noted that arbitrators have not felt that a greater number of arbitrators contributes to a better administration of justice. The NYSE, however, stated that Rule 607, as amended, provides discretion to appoint more than three arbitrators for a case where appropriate, such as where special additional expertise is desirable. *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE to Sharon Lawson, Esq., Division of Market Regulation, Securities and Exchange Commission, dated January 16, 1989.

organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. The persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-88-08 and should be submitted by March 1, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February, 2, 1989.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-2987 Filed 2-7-89; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. IC-16790; 812-7081]**

## J.P. Morgan Acceptance Corporation I; Application

February 2, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

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*Applicant:* J.P. Morgan Acceptance Corporation I.

*Relevant 1940 Act Sections:* Exemption requested under section 6(c) from all provisions of the 1940 Act.

*Summary of Application:* Applicant seeks an order to exempt it and certain trusts that it may form ("Trusts") from all provisions of the 1940 Act to permit the issuance of collateralized mortgage obligations by the Applicant and the Trusts and sale of beneficial ownership in the Trusts and residual interest certificates.

*Filing Date:* The application was filed on July 26, 1988, and an amendment to the application was filed on February 1, 1989.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 27, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also sent it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. J.P. Morgan Acceptance Corporation I, 23 Wall Street, 21/15, New York, NY 10015.

**FOR FURTHER INFORMATION CONTACT:** H.R. Hallock, Jr., Special Counsel at (202) 272-3030.

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a free from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

**Applicant's Representations**

1. The Applicant is a wholly-owned, limited purpose subsidiary of J.P. Morgan Securities Holdings Inc., a Delaware corporation and a wholly-owned subsidiary of J.P. Morgan & Co. Incorporated, a bank holding company which is also a Delaware corporation. The Applicant, a Delaware corporation, was organized to facilitate the financing of mortgage loans through the issuance of one or more series (each, a "Series") of bonds ("Bonds") either directly or through the Trusts, as to which the Applicant will act as depositor, secured primarily by Mortgage Certificates (as defined below) and will perform certain related activities.

2. The Applicant seeks relief on behalf of itself and on behalf of J.P. Morgan Acceptance Trust I and other similar trusts (the "Issuers") permitting the Applicant and the Trusts to issue one or more Series of Bonds and invest in certain Mortgage Certificates which will be used to collateralize such Bonds, and permitting the Applicant to sell the Applicant's right to receive funds released by the Bond Trustee from the lien of the Indenture (each as defined below) either in the form of beneficial interests (the "Beneficial Interests") in the Trusts issuing Bonds or, to the extent that the Applicant issued the Bonds directly, in the form of residual interest certificates ("Residual Interest Certificates").

3. Each Trust will be established under a separate deposit trust agreement (the "Deposit Trust Agreement") between the Applicant and an independent trustee ("Owner Trustee") for the holders of the Beneficial Interest in such Trust. The Applicant will issue one or more Series of Bonds under the terms of an Indenture between the Applicant and the bond trustee (the "Bond Trustee"). Each Trust will issue one or more Series of Bonds under the terms of a separate Indenture for such Trust (each, an "Indenture") between the Owner Trustee and the Bond Trustee. Each Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available.

4. The Applicant or each Trust will issue and sell Bonds in Series secured primarily by Mortgage Certificates. The "Mortgage Certificates" collateralizing the Bonds will be limited to fully modified pass-through mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), Guaranteed Mortgage Pass-Through Securities issued by the Federal National Mortgage Association ("FNMA Certificates") and Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"). All or a portion of the Mortgage Certificates securing a Series of Bonds may be "Partial Pool" Mortgage Certificates. In addition to the Mortgage Certificates directly securing the Bonds, a Series may have additional collateral which may include certain collateral proceeds accounts and reserve funds, as specified in the related Indenture.

5. Each Series of Bonds will consist of one or more classes, including one or more classes of current interest Bonds, compound interest Bonds, zero coupon Bonds or floating interest rate Bonds, as described more fully in the application. Each Series of Bonds may also be secured by certain funds and accounts including collateral proceeds accounts, reserve funds, reinvestment agreements and by other funds and accounts described in the series supplement (any or all of the foregoing together with the Mortgage Certificates, the "Collateral").

6. The Mortgage Certificates securing each Series of Bonds, together with any reinvestment income thereon and any applicable funds, will be sufficient to pay all interest due on the Bonds and to retire each Class of Bonds by its stated maturity. The outstanding "collateral value" (calculated in accoundance with the Indenture) at the time of issuance of the Bonds and following each payment date will be equal to or be greater than the outstanding principal balance of the Bonds. The Mortgage Certificates will be assigned to the Bond Trustee and will be subject to the lien of the related Indenture.

7. Neither the Applicant, the owners of the Beneficial Interests, the holders of the Residual Interest Certificates, the Owner Trustee, nor the Bond Trustee will be able to impair the security afforded by the Mortgage Certificates because, without the consent of each affected holder of the Bonds ("Bondholders"), neither the Applicant, the owners of the Beneficial Interests, the holders of the Residual Certificates, the Owner Trustee, nor the Bond Trustee will be able to: (a) Change the stated maturity on any Bond; (b) reduce the principal or rate of interest (or the manner of determining the rate of interest on floating interest rate bonds) on any Bond; (c) change the priority of payment on any class of any series of Bonds; (d) impair or adversely affect the Mortgage Certificates securing a Series of Bonds; (e) permit the creation of a lien ranking prior to or on parity with the lien of the related Indenture with respect to the Mortgage Certificates; or (f) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

8. The sale of the Beneficial Interests in a Trust or Residual Interest Certificates will not alter the payment of cash flows under any Indenture, including the amounts to be deposited in the collateral proceeds account or any reserve fund. Thus, the aggregate interest in the Collateral which is available to the owners of the Beneficial Interests in a Trust or Residual Interest Certificates always will be far less than payments to Bondholders. Further, except for the limited right to substitute Mortgage Certificates, subject to Condition A.(3) below, it will not be possible for the owners of Beneficial Interests or the Residual Interest Certificates to alter the Mortgage Certificates, and, in no event will the limited right of substitution result in a diminution in the value of the Collateral.

9. An election by an Issuer to treat the arrangement by which the collateral secures a Series of Bonds as a "real estate mortgage investment conduit" ("REMIC") under the Internal Revenue Code of 1986, as amended, will have no significant effect on the level of expenses that would be incurred by the Applicant or such Trust. Administration fees and expenses will be paid or provided for in a manner satisfactory to the nationally recognized statistical rating agency the Series and subject to Condition D below.

**Applicant's Legal Conclusions**

1. The relief requested is consistent with the purposes of the 1940 Act and appropriate in the public interest because neither the Applicant nor the Trusts it plans to form are the types of entities to which the provisions of the 1940 Act were intended to be applied, and the proposed activities will promote the public interest by facilitating the financing of mortgage loans, thereby increasing the secondary market for such loans and adding to the flow of mortgage capital ultimately available to home buyers. Under the circumstances described in the application, the interests of investors will be adequately protected.

**Conditions**

The Applicant agrees that the requested order may be expressly conditioned upon the following:

*A. Conditions relating to the Collateral*

(1) the Bonds of each Series wil be registerd under the Securities Act of 1933 (the "1933 Act") unless offered in the transaction excempt from registration either pursuant to section 4(2) of the 1933 Act or because such Series of Bonds will come to rest outside the United States, provided that the Bonds are offered and sold outside the United States or to non-United States persons in reliance upon an opinion of United States counsel that registration is not required. No single offering of Bonds both within and outside the United States will be made without registration of all such Bonds under the 1933 Act without first obtaining a no-action letter permitting such offering or otherwise complying with applicable standards then governing such offerings. In all such cases, the Issuer will adopt agreements and procedures reasonably designed to prevent such Bonds from being offered or sold in the United States or to United States persons (except as United States counsel may them advise is permissible). Disclosure provided to purchasers located outside the United States will be substantially the same as that provided to United States investors in United States offerings.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. The primary collateral directly securing the Bonds will be limited to GNMA, FNMA and FHLMC Certificates.

(3) If new Mortgage Certificates are substituted, the substitute Mortgage Certificates will: (i) Be of equal or better quality other than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flows to the Mortgage Certificates replaced; (iii) be insured or guaranteed at least to the same extent as the Mortgage Certificates replaced; and (iv) meet the criteria set forth in conditions A. (2) and (4). New Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as collateral. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

(4) Neither the Applicant, any Trust nor the owners of the Beneficial Interests or Residual Interest Certificates will sell the Mortgage Certificates securing the Bonds of a Series while such Bonds are outstanding without the written consent of 100% of the holders of the Bonds of such Series.

(5) All Mortgage Certificates, funds, accounts or other collateral securing a Series of Bonds will be held by the Bond Trustee or on behalf of the Bond Trustee by an independent custodian. Neither the Bond Trustee nor the custodian may be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant or any Trust or any owner of a Beneficial Interest or Residual Interest Certificate. The Bond Trustee will retain a first priority perfected security or lien interest in and to all collateral securing such Bonds.

(6) Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant or any Trust or any owner of a Beneficial Interest or Residual Interest Certificate. The Bonds will not be "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

(7) No less often than annually, an independent public accountant will audit the books and records of the Applicant and each Trust and will report on whether the anticipated payments of principal and interest on the Mortgage Certificates and other collateral continue to be adequate to pay the principal and interest on the

Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Bond Trustee.

*B. Conditions Relating to Floating Interest Rate Bonds*

(1) Each class of floating interest rate Bonds will have a set maximum interest rate (an interest rate cap) or a minimum interest rate or provide some other mechanism to insure that condition (2) below is satisfied.

(2) At the time of the assignment and pledge of the Mortgage Certificates to the Bond Trustee, as well as during the life of the Bonds, the scheduled payments of principal and interest to be received by the Bond Trustee on the Mortgage Certificates plus any reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the application) will be sufficient to make all payments of principal and interest on the Bonds then outstanding.[1] The Mortgage Certificates will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but subject to the limited right to substitute collateral as set forth in Condition A. (3) above, will not be released from the lien of the Indenture prior to the payment of the Bonds.

*C. Conditions Relating to the Sale of the Beneficial Interests and the Residual Interest Certificates*

(1) Notwithstanding the sale of Beneficial Interests or Residual Interest Certificates, all of the outstanding capital stock of the Applicant will continue to be owned by J.P. Morgan Securities Holdings Inc. or an affiliate thereof. The Applicant will not issue any other capital stock, except to J.P. Morgan Securities Holdings Inc. or an affiliate thereof.

(2) A Beneficial Interest in a Trust or a Residual Interest Certificate will be offered and sold only to (i) institutions or (ii) not more than 15 noninstitutions which are "accredited investors" as defined in Rule 510(a) of the 1933 Act. Upon initial sale, there will not be more than 100 owners of the Beneficial Interests in any Trust or more than 100 owners of Residual Interest Certificates in any Series of Bonds. Institutional owners of Beneficial Interests or Residual Interest Certificates will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds (subject to certain limitations discussed in the application), real estate investment trusts, master limited partnerships or other similar institutional investors. Institutional investors will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Beneficial Interests and Residual Interest Certificates and understand the volatility of interest rate fluctuations as they affect the value of mortgates, mortgage-related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 15, be required to purchase at least $200,000 of such Beneficial Interests or Residual Interest Certificates and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing a Beneficial Interest or Residual Interest Certificate and will have direct personal and significant experience in making investments in mortgage-related securities.

(3) Each sale of Beneficial Interests or Residual Interest Certificates will qualify as a transaction not involving any public offering within the meaning of section 4(2) the 1933 Act.

(4) The Deposit Trust Agreement or the Indenture, as applicable, will prohibit the transfer of any such Beneficial Interests or Residual Interest Certificates if there would be more than 100 holders of Beneficial Interests in a Trust or Residual Interest Certificates in a Series of Bonds as a result of such transfer.

(5) In connection with each sale of Beneficial Interests or Residual Interest Certificates each purchaser thereof will be required to represent that it is purchasing for investment and not for distribution and that it will hold such Beneficial Interests or Residual Interest Certificates in its own name and not as nominee for undisclosed investors.

(6) In connection with each sale of Beneficial Interests or Residual Interest Certificates, each purchaser thereof will be required to represent that (i) It is not affiliated with the Bond Trustee and (ii) if it is the holder of a controlling interest (as that term is defined in Rule 405 under the 1933 Act) in the related Trust that it is not affiliated with either the custodian which may hold the Collateral on behalf of the Trustee or the nationally recognized statistical rating agency rating the Bonds of the relevant Series.

(7) If the sale of Beneficial Interests results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of any Trust, the exemptive relief afforded by an order granted on the application would not apply to subsequent Bond offerings by such Trust.

*D. Condition Relating to REMICs*

The election by the Applicant or a Trust to treat the arrangement by which the collateral secures a Series of Bonds as a REMIC will have no significant effect on the level of the expenses that would be incurred by the REMIC. In the event of such a REMIC election, the Applicant or the Trust, as appropriate, will provide for the payments of administrative fees and expenses as set forth in the application, and will ensure that the anticipated level of fees and expenses will be adequately provided for regardless of the method selected.

For the commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-2988 Filed 2-7-89; 8:45 am]

BILLING CODE 8010-01-M

[1] In the case of a Series of Bonds that contain a class or classes of floating interest rate Bonds, the application describes a number of mechanisms that exist to ensure that this condition will be valid notwithstanding subsequent potential increases in the interest rate applicable to the floating interest rate Bonds. It is expected that other mechanisms may be identified in the future. The Applicant will give the staff notice by letter of any such additional mechanisms before they are utilized, in order to give the staff an opportunity to raise any questions as to the appropriateness of their use.

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan Area No. 6665; Amdt. 2]**

### Wyoming; Declaration of Disaster Loan Area

The above-numbered Declaration (53 FR 40819), as amended (54 FR 3893), is hereby amended to include Converse County, and the contiguous counties of Albany, Campbell, Johnson, and Platte, in the State of Wyoming, as a result of damages from forest fires which started on July 5, 1988. All other information remains the same; i.e., the termination date for filing applications for economic injury assistance is the close of business on July 6, 1989. Any contiguous counties not included in this amendment are already covered under a previous declaration.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Date: January 26, 1989.

**James Abdnor,**

*Administrator.*

[FR Doc. 89-3023 Filed 2-7-89; 8:45 am]

BILLING CODE 8025-01-M

## Equis Investment; License Surrender

**[License No. 09/09-0353]**

Notice is hereby given that Equis Investment, Three Embarcadero Center, San Francisco, California 94111, has surrendered its license to operate as a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). Equis Investment was licensed by the Small Business Administration on February 12, 1985.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on January 17, 1989, and accordingly, all rights, privileges, and franchies derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

Dated: January 27, 1989.

[FR Doc. 89-3012 Filed 2-7-89; 8:45 am]

BILLING CODE 8025-01-M

**[License No. 05/05-0208]**

## Hidden Oaks Financial Services, Inc.; License Surrender

Notice is hereby given that Hidden Oaks Financial Services, Inc., 4620 W. 77th Street, Edina, MN 55435 (Hidden Oaks) has surrendered its license to operate as a small business investment company under section 301(c) of Small Business Investment Act of 1958, as amended (the Act). Hidden Oaks was licensed by the Small Business Administration on May 11, 1988.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on January 26, 1989, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 27, 1989.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 89-3013 Filed 2-7-89; 8:45 am]

BILLING CODE 8025-01-M

**[License No. 05/05-0200]**

## Itasca Growth Fund, Inc.; License Surrender

Notice is hereby given that Itasca Growth Fund, Inc., 501 NW. Second Avenue, Grand Rapids, Minnesota 55744, has surrendered its license to operate as a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). Itasca Growth Fund, Inc. was licensed by the Small Business Administration on May 16, 1985.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on January 9, 1989, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 27, 1989.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 89-3014 Filed 2-7-89; 8:45 am]

BILLING CODE 8025-01-M

**[Apple No.: 02/02-0515]**

## CMNY Capital II, L. P.; Application for a Small Business Investment Company License

An application for a license to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661, *et seq.*) has been filed by CMNY Capital II, L. P., 77 Water Street, New York, New York 10005 (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1988).

The management and ownership of the Applicant, a limited partnership, are as follows:

| Name | Type of partner | Percent of partnership Capital |
|---|---|---|
| Robert G. Davidoff, 40 Stoner Ave., Great Neck, NY 11021. | General, Limited, Class B Limited. | 44.0 |
| Howard M. Davidoff, 16 West 16th Street, New York, NY 10011. | General, Limited | 1.5 |
| Mark L. Claster, 1 Hummingbird Drive, Roslyn, NY 11516. | General, Limited | 1.0 |
| Andrew M. Boas, 15 East 91st Street, New York, NY 10128. | General, Limited | 01.0 |
| Robert S. Boas, 25 Harbour Road, Great Neck, NY 11024. | Limited, Class B Limited. | 22.0 |
| Edwin S. Marks, 15 Eagle Point Drive, Kings Point, NY 11024. | Limited, Class B Limited. | 22.0 |

There are seven additional limited partners who own an aggregate 8.5 percent of the partnership capital.

The Applicant, a Delaware limited partnership, will begin operations with $4,000,000 in partnership capital. The Applicant will conduct its activities principally within the State of New York.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 2, 1989.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 89-3015 Filed 2-7-89; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Barnstable Municipal Airport (Hyannis), Barnstable, MA

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure map submitted by the town of Barnstable, Massachusetts, for Barnstable Municipal Airport (Hyannis) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 is in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Barnstable Municipal Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before July 29, 1989.

**EFFECTIVE DATE:** The effective date of the FAA's determination on the noise exposure map and of the start of its review of the associated noise compatibility program is January 30, 1989. The public comment period ends on March 31, 1989.

**FOR FURTHER INFORMATION CONTACT:** John Silva, Federal Aviation Administration, New England Region, Airports Division, ANE-600, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments on the proposed noise compatibility program should also be submitted to the above office.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the noise exposure map submitted for Barnstable Municipal Airport is in compliance with applicable requirements of Part 150, effective January 30, 1989. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before July 29, 1989. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such map to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted a noise exposure map that is found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken, or proposes, for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The town of Barnstable submitted to the FAA on December 31, 1987, a noise exposure map, descriptions, and other documentation which were produced during the Airport Nosie Compatibility Planning (Part 150) Study at Barnstable Municipal Airport from November 1985 to August 1988. It was requested that the FAA review this material as the noise exposure map, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure map and related descriptions submitted by the town of Barnstable. The specific maps under consideration are Figures 8.03 and 8.04, along with the supporting documentation in Volume I: Noise Exposure Map of the Part 150 Study. The FAA has determined that the map for Barnstable Municipal Airport is in compliance with applicable requirements. This determination is effective on January 30, 1989. FAA's determination on an airport operator's noise exposure map is limited to a finding that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of a noise exposure map. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted the map, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 or FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Barnstable Municipal Airport, also effective on January 30, 1989. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 29, 1989.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure map, the FAA's evaluation of the map, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591.

Federal Aviation Administration, New England Region, Airports Division,

ANE–600, 12 New England Executive Park, Burlington, MA 01803.
Airport Manager's Office, Barnstable Municipal Airport, Hyannis, MA 02601.

Questions may be directed to the individual named above under the heading: **FOR FURTHER INFORMATION CONTACT.**

Issued in Burlington, Massachusetts, on January 30, 1989.

**Vincent A. Scarano,**

*Manager, Airports Division, New England Region.*

[FR Doc. 89–2952 Filed 2–7–89; 8:45 am]

BILLING CODE 4910–13–M

## Federal Highway Administration

### Environmental Impact Statement; Kenosha County, WI

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Kenosha County, Wisconsin.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jacki Lawton, Environmental Coordinator, Federal Highway Administration 4502 Vernon Boulevard, Madison, Wisconsin 53705–4905. Telephone (608) 264–5967.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Wisconsin Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to improve State Trunk Highway (STH) 31 between the Wisconsin/Illinois State Line and STH 50, a distance of about 5 miles, southwest of the City of Kenosha, Wisconsin.

The proposed action is considered necessary to provide for future projected traffic demand. Alternatives under consideration include: (1) Taking no action; (2) widening the existing two-lane highway to a multi-lane highway; (3) constructing a multi-lane highway on new location. Incorporated into and studied with the various build alternatives will be design variations of grade and alinement. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. A series of public meetings will be held in Kenosha County during 1989. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time. To ensure that a full range of issues related to this proposed action are addressed, and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 30, 1989.

**Frank M. Mayer,**

*Division Administrator, Madison, Wisconsin.*

[FR Doc. 89–2962 Filed 2–7–89; 8:45 am]

BILLING CODE 4910–22–M

### Environmental Impact Statement, Multnomah County, OR

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project called the Mt. Hood Parkway in Multnomah County.

**FOR FURTHER INFORMATION CONTACT:** Elton Chang, Environmental Coordinator and Safety Programs Engineer, Federal Highway Administration, Equitable Center, Suite 100, 530 Center NE, Salem, Oregon 97301 Telephone: (503) 399–5749.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to construct a roadway between the Columbia River Highway (Interstate 84) and the Mt. Hood Highway (US 26) in Multonamah County, Oregon. The proposed name for this controlled access connection is the Mt. Hood Parkway. This project is located in portions of the City of Wood Village, the City of Troutdale, and the City of Gresham as well as in unincorporated areas of Multnomah County. The proposed roadway will provide a good principal north-south route that will tie into the county arterial system. The proposed improvement is considered necessary to provide for the existing and projected traffic demand and a safe and efficient highway meeting modern design standards.

Alternatives under consideration include corridors that are within the urban area and that are in the surrounding rural area. The alternative of taking no action will also be considered.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. Public meetings will be held during project development, and a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: January 27, 1989.

**Elton H. Chang,**

*Environment Coordinator/Safety Program Engineer, Oregon Division, Salem, Oregon.*

[FR Doc. 89–2963 Filed 2–7–89; 8:45 am]

BILLING CODE 4910–22–M

# Sunshine Act Meetings

Federal Register
Vol. 54, No. 25
Wednesday, February 8, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

**FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**

**TIME AND DATE:** 9:00 a.m. February 21, 1989.

**PLACE:** 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, DC

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of minutes of last meeting.
2. Thrift Savings Plan activities report by Executive Director.
3. Review of investment policy.

**CONTACT PERSON FOR MORE INFORMATION:** Tom Trabucco, Director, or Catherine Ball, Deputy Director, Office of External Affairs (202) 523-5660.

Date: February 6, 1989.

**Francis X. Cavanaugh,**

*Executive Director, Federal Retirement Thrift Investment Board.*

[FR Doc. 89-3057 Filed 2-6-89; 11:34 am]

BILLING CODE 6760-01-M

**NATIONAL TRANSPORTATION SAFETY BOARD**

**TIME AND DATE:** 9:30 a.m. Tuesday, February 14, 1989.

**PLACE:** The Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

**STATUS:** The first three items are open to the public. The last item is closed under Exemption 10 of the Government in Sunshine Act.

**MATTERS TO BE CONSIDERED:**

1. Railroad Accident Report: Head-On Collision of Conrail Freight Trains UBT-506 and TV-61, Thompsontown, Pennsylvania, January 14, 1988.
2. Recommendation to FAA: Review of Airline Sick Leave Policies.
3. Aviation Accident Data Review: General Aviation Accidents Involving Visual Flight Rules Flight into Instrument Meteorological Conditions.
4. Opinion and Order: Administrator v. Friday, Docket SE-8113; disposition of cross appeals.

**FOR MORE INFORMATION CONTACT:** Bea Hardesty, (202) 382-6525.

**Bea Hardesty,**

*Federal Register Liaison Officer.*

February 3, 1989.

[FR Doc. 89-3005 Filed 2-3-89; 4:54 pm]

BILLING CODE 7533-01-M

**SECURITIES AND EXCHANGE COMMISSION**

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of February 13, 1989.

A closed meeting will be held on Tuesday, February 14, 1989, at 2:30 p.m. Open meeting will be held on Wednesday, February 15, 1989, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 14, 1989, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Formal orders of investigation.
Settlement of injunctive actions.

The subject matter of the open meeting scheduled for Wednesday, February 15, 1989, at 10:00 a.m., will be:

1. The Commission will consider whether to propose for public comment certain amendments to the Commission's rules and forms to reflect recent changes in generally accepted accounting principles established under newly adopted Statements of Financial Accounting Standards. The Commission will also consider whether to approve certain changes to the Codification of Financial Reporting Policies to conform with the newly adopted standards. For further information, please contact John W. Albert or Teresa Iannaconi at (202) 272-2130 or Robert Bayless at (202) 272-2553.
2. Consideration of whether to propose for public comment Rule 32a-3 under the Investment Company Act of 1940. Rule 32a-3 would provide certain management investment companies with an expanded time period in which to select the independent public accountant. For further information, please contact C. Christopher Sprague at (202) 272-7779.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kevin Fogarty at (202) 272-2300.

**Jonathan G. Katz,**

*Secretary.*

February 3, 1989.

[FR Doc. 89-3106 Filed 2-6-89; 3:50 pm]

BILLING CODE 8010-01-M

# Corrections

Federal Register
Vol. 54, No. 25
Wednesday, February 8, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### Commodity Credit Corporation

### 7 CFR Part 1413

### Farm Marketing Quotas, Acreage Allotments, and Production Adjustment; Feed Grain, Rice, Upland and Extra Long Staple Cotton, Wheat, and Related Programs

*Correction*

In rule document 89-1324 beginning on page 2991 in the issue of Monday, January 23, 1989, make the following correction:

On page 2993, in the second column, in amendatory instruction 2, in the first line, "using" should read "revising".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 510, 520, 522, 524, 546, and 555

### Animal Drugs, Feeds, and Related Products; Change of Sponsor

*Correction*

In the issue of Friday, December 9, 1988, on page 49823, in a correction to rule document 88-23997, beginning in the second column, the second paragraph of the text that appeared was inaccurate and should read as follows:

On page 40726, in the third page-column, under **SUPPLEMENTARY INFORMATION**, in the table, in the second table-column, in the sixth entry, "Diethylcarbamazine" was misspelled; and in the seventh entry, after "SDM", the entry should read "10% Injection (Sulfadimethoxine)"

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 88M- 0323]

### Innovative Optics, Inc.; Premarket Approval of I.O.-18 (Kolfocon A) and I.O.-32 (Kolfocon B) Rigid Gas Permeable Contact Lenses (Clear and Tinted)

*Correction*

In notice document 88-24625 beginning on page 43044 in the issue of Tuesday, October 25, 1988, make the following corrections:

1. On page 43044, in the third column, under **DATE**, in the first line, "administrative" was misspelled.

2. On page 43045, in the third column, in the second line, "the" should read "each".

3. On the same page, in the same column, in the first complete paragraph, in the eighth line, "Devices" was misspelled.

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket Nos. 87A-0098, 88A-0120, and 88A-0213]

### Request for Exemption From Federal Preemption of State and Local Medical Device Requirements; Hearing Aid Devices; States of Connecticut, Vermont, and Missouri Statutes; Availability

*Correction*

In notice document 88-29988 beginning on page 52789 in the issue of Thursday, December 29, 1988, make the following correction:

On page 52789, in the third column, in the agency docket line, the docket numbers should appear as set forth above.

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 88F-0333]

### Sandoz AG; Filing of Food Additive Petition

*Correction*

In the issue of Friday, December 9, 1988,on page 49824, in the first column, in the correction to notice document 88-24624, designated paragraph 2 was incomplete and should have read as follows:

2. In the 3rd column, under **SUPPLEMENTARY INFORMATION**, in the 3rd line, "see." should read "sec."; in the 6th line, "CH-442" should read "CH-4402"; and in the 12th line, "methylpentene" was misspelled.

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Public Land Order 6706

[AK-932-09-4214-10; F-14988]

### Withdrawal of Public Land for the Air Force Indian Mountain Research Site; Alaska

*Correction*

In rule document 89-531 appearing on page 979 in the issue of Wednesday, January 11, 1989, make the following correction:

In the second column, under T. 7 N., R. 24 E., in the second line, insert "NE¼SW¼SW¼" after the first "SW¼,"

BILLING CODE 1505-01-D

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Airspace Docket No. 88-AGL-28]**

## Proposed Control Zone Alterations—Ann Arbor, MI, and Detroit Willow Run Airport, MI

*Correction*

In proposed rule document 89-1301 beginning on page 3076 in the issue of Monday, January 23, 1989, make the following correction:

On page 3077, in the first column, under **PART 71—[AMENDED]**, in the authority citation, in the first line, "49 U.S.C. 1345(a)" should read "49 U.S.C. 1348(a)".

BILLING CODE 1505-01-D

federal register

Wednesday
February 8, 1989

Part II

# The President

Bolivian Coca Cultivation; Memorandum

# Department of State

Bolivian Coca Cultivation; Certification

Federal Register
Vol. 54, No. 25
Wednesday, February 8, 1989

# Presidential Documents

Title 3—

## The President

**Memorandum of December 22, 1988**

## Delegation of Certification Responsibility

**Memorandum for the Honorable George P. Shultz, the Secretary of State**

By virtue of the authority vested in me as President by the Constitution and the statutes of the United States of America, including Section 621 of the Foreign Assistance Act of 1961, as amended, and Section 301 of Title 3 of the United States Code, I hereby delegate to the Secretary of State the responsibility for making the certification required by Section 4302(a) of the Anti-Drug Abuse Act of 1988 (P.L. 100–690).

You are authorized and directed to publish this memorandum in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
*Washington, December 22, 1988.*

[FR Doc. 89–2956
Filed 2–7–89; 8:45 am]
Billing code 3195–01–M

# Presidential Documents

## Department of State

**[Public Notice 1094]**

## Bolivian Coca Cultivation; Certification

### Certification on Bolivia

Pursuant to section 4302(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690), and in accordance with the delegation of responsibility from the President dated December 22, 1988, I hereby certify that the Government of Bolivia is implementing legislation that (1) establishes its legal coca requirements, (2) provides for the licensing of the number of hectares necessary to produce the legal requirement, (3) makes unlicensed coca production illegal, and (4) makes possession and distribution of coca leaf illegal (other than possession and distribution for licit purposes).

This certification shall be reported to the Congress immediately.

This certification shall be published in the **Federal Register.**

Date: January 6, 1989.

**John C. Whitehead,**

*Acting Secretary.*

### Justification for Certification on Bolivia

Section 4302(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690) states that FY 1989 security assistance may be provided for Bolivia only if the President certifies to the Congress that the Government of Bolivia is implementing legislation that: (1) establishes its legal coca requirements, (2) provides for the licensing of the number of hectares necessary to produce the legal requirement, (3) makes unlicensed coca production illegal, and (4) makes possession and distribution of coca leaf illegal (other than possession and distribution for licit purposes).

The Government of Bolivia has in fact adopted and is implementing legislation that meets the criteria of section 4302(a). Its new coca law (Law 1008, published July 22, 1988), and implementing regulations signed by the President on December 29, 1988 in Executive Decree 22099, contain a number of provisions to control excess coca production:

—Legal coca requirements are established at 12,000 hectares by Article 29 of the new law. Articles 8 through 11, and the implementing regulations, make cultivation in most of the country illegal, limiting traditional and transitional cultivation zones to a few provinces of La Paz and Cochabamba Departments.

—Article 17 of the law requires the Government to register all coca growers in the traditional and transitional zones and record their holdings to establish the quantity under production. Article 5 of the regulations stipulates that the coca reduction agency (DIRECO) bears this responsibility. Growers will have up to a year to be measured and recorded, after which they will be subject to involuntary eradication without compensation.

—Under Articles 7, 11, 12, 31, and 71, all coca grown in illegal zones, seedbeds, coca associated with processing facilities or that grown under contract is illegal.

—Article 7 states that all coca leaf destined for processing (coca paste, base, etc.) is illegal. The law and implementing regulations establish licensing requirements for wholesale buyers and limit legal markets to those locations established by "coca legal" of the Ministry of Interior. Coca leaf not destined for established markets is subject to seizure and incineration.

[FR Doc. 89-2955
Filed 2-7-89; 8:45 am]
Billing code 4710-09-M

federal register

Wednesday
February 8, 1989

Part III

# Environmental Protection Agency

## Final Decision Not To Initiate a Special Review and Decision and Order of Cancellation on Chlordimeform; Notice

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/52A; FRL-3515-7]

## Chlordimeform; Final Decision Not To Initiate a Special Review and Decision and Order of Cancellation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; final decision not to initiate a special review and decision and order of cancellation.

**SUMMARY:** On September 19, 1988, the Agency proposed not to initiate a Special Review of chlordimeform (53 FR 36422) because chlordimeform registrations had been amended, at the registrants' request, to terminate on February 19, 1989. The September 19 notice also proposed not to allow sale, distribution, and use of chlordimeform after February 19, 1989. In response to the notice, EPA received numerous comments from users, state officials, and researchers to allow use of remaining stocks in 1989. After conducting a risk/benefit analysis of the use of existing stocks for one more season, EPA has decided to allow use of existing stocks of chlordimeform in the possession of end users until October 1, 1989. Sale and distribution of existing stocks now in the possession of registrants, retailers, and distributors will not be permitted after February 19, 1989; registrants are required to recall those stocks in the hands of distributors and retailers.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Paul Parsons, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1006, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-0064).

**SUPPLEMENTARY INFORMATION:** This Notice has six units. Unit I is the Introduction. Unit II summarizes the Agency's risk concerns about chlordimeform. Unit III discusses the comments received in response to the proposed notice not to initiate a Special Review of chlordimeform. Unit IV sets forth the Agency's final decision not to initiate the Special Review of chlordimeform and the Agency's risk/benefit analysis of allowing the use of existing stocks of chlordimeform in 1989. Unit V describes the comment opportunities and announces the availability of the public docket. Unit VI sets forth the Order of Cancellation.

### I. Introduction

#### *A. Description of Chlordimeform*

Chlordimeform is the common name for N'-(4-Chloro-o-tolyl)-N, N-dimethylformamidine. Chlordimeform hydrochloride is the common name for N'-(4-Chloro-o-tolyl)-N,N-dimethylformamidine hydrochloride. The two most common trade names are Galecron® (Ciba-Geigy Corporation) and Fundal® (Nor-Am Chemical Company). Both Ciba-Geigy and Nor-Am are registrants of technical chlordimeform and chlordimeform hydrochloride. Chlordimeform, an insecticide, is used on cotton to control *Heliothis spp.*

#### *B. Legal Background*

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). Before a product can be registered it must be shown that it can be used without "unreasonable adverse effects on the environment." (FIFRA section 3(c)(5)). The term "unreasonable adverse effects on the environment" is defined in FIFRA section 2(bb) as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefit of the use of any pesticide." The burden of proving that a pesticide meets this standard for registration is, at all times, on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard, the Administrator may cancel this registration under section 6 of FIFRA.

The Special Review process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any Notice of Final Determination describing the regulatory action which the Administrator has selected. The Special Review process, which was previously called the Rebuttable Presumption Against Registration (RPAR) process, is described in 40 CFR Part 154, published in the **Federal Register** of November 27, 1985 (50 FR 49015).

The Special Review process is commenced by the issuance of a preliminary notification to registrants and applicants for registration pursuant to 40 CFR 154.21 that the Agency is considering commencing a Special Review. If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will not conduct a Special Review, it is required under 40 CFR 154.23 to issue a proposed decision to be published in the **Federal Register.** That regulation requires that a period of not less than 30 days be provided for public comment on the proposed decision not to conduct a Special Review. Subsequent to receipt and evaluation of comments on the proposed decision not to conduct a Special Review, the Administrator is required by 40 CFR 154.25 to publish in the **Federal Register** his final decision regarding whether or not a Special Review will be conducted.

#### *C. Regulatory History*

Chlordimeform was first registered in 1968 for use on apples. Between 1968 and 1976 use on several more crops was authorized, including cotton. In 1976 the registrants voluntarily withdrew chlordimeform from the market based on results of a chronic mouse study showing that chlordimeform caused malignant turmors.

Chlordimeform was reintroduced to the market in 1978 with only the cotton use on the label. At that time, extensive protective clothing measures were required as well as requirements for mixing and loading in closed systems, reduced application rates, restricted use classification, and training for workers. Registrants were also required to implement a worker urine monitoring program. Following the reintroduction of chlordimeform, the Agency received additional positive mouse cancer studies on chlordimeform and its metabolites.

On September 15, 1985, the Agency issued a preliminary notification to the registrants of chlordimeform, pursuant to 40 CFR 154.21, based on evidence that chlordimeform caused tumors in laboratory animals. On January 15, 1986, a draft Registration Standard for chlordimeform was issued for public comment. This document notified the public that the Agency would initiate a Special Review and invited comments from registrants and other interested parties. Public comment on the draft Registration Standard was initiated because there was a substantially complete chronic health and teratology data base for chlordimeform (40 CFR 155.34). The Agency decided not to issue a **Federal Register** notice merely announcing initiation of a Special Review but to proceed directly to a combined Notice of Initiation of Special Review and Preliminary Determination. A Notice of Preliminary Determination sets forth both the risks and the benefits of the chemcial, analyzes the risks and benefits, discusses regulatory options for reducing risk, and proposes a regulatory action. The Agency was preparing a combined Notice of Initiation of Special Review and

Preliminary Determination when, prior to formal initiation of a Special Review, on February 19, 1988, Ciba-Geigy and Nor-Am, the only registrants of chlordimeform, requested voluntary cancellation of all products containing chlordimeform, effective February 19, 1989. Both companies announced their intent to discontinue sale and distribution after the 1988 cotton-growing season, about October 1, 1988; they indicated that they expected existing stocks, about the same amount as they sold in 1987, to be used up in the 1988 growing season. Both companies also stated that they would recall any unused stocks down to the user level, and would dispose of these recalled stocks. Both companies requested immediate withdrawal of all tolerances except for cotton; they requested the withdrawal of the cotton related tolerances effective December 31, 1990. The Agency has approved amendments submitted by both companies which place a termination date of Febraury 19, 1989 on their chlordimeform registrations.

The Agency has also discussed with the National Institute of Occupational Safety and Health (NIOSH) and various State health agencies, a possible program to contact agricultural and factory workers exposed to significant levels of chlordimeform in the past. The purpose of such notification would be to inform workers of their increased risk of bladder cancer, and to encourage them to seek medical attention, such as cancer screening tests, which would allow early detection and treatment. No decision has been made yet to pursue a notification program.

This Notice announces that, for the reasons explained in the September 19, 1988, **Federal Register** Notice (53 FR 36422) and summarized in Unit IV of this Notice, the Agency will not initiate the Special Review based on the companies' voluntary cancellations. The Agency has cancelled Ciba-Geigy's and Nor-Am's chlordimeform registrations, effective February 19, 1989. The September 19, 1988, proposed notice contained a prohibition against the sale, distribution, and use of existing stocks after February 19, 1989. This notice announces EPA's decision to prohibit sale and distribution after February 19, 1989, but to allow the use of existing stocks in the possession of end users, until October 1, 1989, based on comments and information received from users, state officials, and researchers, which the Agency used in a risk/benefit analysis of the short term use of chlordimeform until October 1, 1989. The reasons for granting this provision are also discussed in Unit IV.

## II. Risk Concerns

### *A. Oncogenic Risks*

A private notification, issued pursuant to 40 CFR 154.21, which began the pre-Special Review process, was sent to chlordimeform registrants because of Agency concerns that chlordimeform exceeded the risk criterion for oncogenicity now specified in 40 CFR 154.7(a)(2). This concern was specifically based on four mouse oncogenicity studies which demonstrate significant dose-related increases in tumor rates in male and female mice. These studies are discussed at length in the draft Chlordimeform Registration Standard, which can be obtained from the address given above for "**FURTHER INFORMATION.**"

After the private notification to registrants, the Agency received preliminary findings from a retrospective mortality study of German production workers which suggests 4-chlor-o-toluidine (5–CAT), a metabolite of chlordimeform which has been detected in the urine of exposed agricultural workers, may induce bladder cancer in humans. The metabolite 5–CAT belongs to a class of organic chemicals, the substituted anilines, many members of which have been identified as carcinogenic.

Based on animal data, EPA had previously concluded that there is sufficient experimental evidence to classify chlordimeform as a $B_2$ or probable human carcinogen, pursuant to Agency carcinogen assessment guidelines. The human data from the epidemiological study of workers support the classification of chlordimeform as a probable human carcinogen.

### *B. Exposure*

Exposure estimates for chlordimeform were developed using data from Ciba Geigy/Nor-am urine monitoring studies and the Agency's surrogate data base. The estimated values for absorbed dose varied by little more than an order of magnitude. The variations in values are not viewed as significant and in fact represent a reasonable agreement between the dermal surrogate data and urine data and support the level of confidence in the exposure determinations. A detailed exposure analysis is contained in the public docket and was summarized in the September 19 notice.

### *C. Applicator Risk*

The Agency concluded that the most appropriate potency value for the parent compound with regard to mixer/loader/applicator risk is 0.94 $(mg/kg/day)^{-1}$. This value was chosen because it represents the geometric mean of cancer potency for malignant hemangioendotheliomas observed in the mouse oncogenicity studies.

After considering the data related to exposure and oncogenicity, the Agency developed risk estimates for agricultural workers. The following Table 1 summarizes the risk estimates for workers, mixer/loaders, and scouts:

TABLE 1—LIFETIME CANCER RISKS FOR APPLICATORS EXPOSED TO CHLORDIMEFORM

| | EPA surrogate data | Urine data agency corrections |
|---|---|---|
| Mixers/loaders | $10^{-3}$ | $10^{-3}$ |
| Pilots | $10^{-4}$ | |
| Flaggers | $10^{-4}$ | |
| Scouts | $10^{-6}$ | |

The exposure value used in the risk calculation for mixer/loaders (0.023 mg/kg/ working day) was the absorbed dose value calculated by the Agency based on adjustments to the urine data base. Risk estimates for mixer/loaders based on the Ciba-Geigy/Nor-Am urine data are $10^{-3}$, and are consistent with those risk estimates based on the Agency's surrogate dermal data base. The risk estimates are for the upper 95 percent confidence level. For the purposes of conducting risk assessments, the Agency traditionally assumes a life expectancy of 70 years. In addition, the Agency traditionally assumes agricultural workers have a 35-year working lifetime.

## III. Comments on Proposed Notice Not To Initiate Special Review

Virtually all comments received concerned the Agency's proposal to prohibit the use of existing stocks of chlordimeform after the date of cancellation, February 19, 1989. The Agency's response to these comments appears in the following Unit III.A. In making the proposal, the Agency assumed that all stocks of chlordimeform would be used up in 1988, and so there would be no stocks remaining in 1989; in addition, the registrants had agreed to recall any unused stocks down to the end user level. However, drought and low pest pressure in 1988 combined to reduce the usage of chlordimeform to about 75 to 90 percent of usage in more typical years. Based on limited surveys and estimates by State agricultural officials and the registrants, the Agency believes that

there are significant stocks of chlordimeform (thought to be within a range of 10 to 25 percent of a normal year's supply; that is, 100,000 to 250,000 pounds) remaining in the hands of end users. Therefore, in light of the larger than expected stocks of chlordimeform in the hands of end users and in light of the comments of State pesticide officials and user groups, the Agency has conducted a risk/benefit analysis of allowing the use of existing stocks of chlordimeform in 1989. This risk/benefit analysis appears in the following Unit III.B.

*A. Agency's Response to Comments*

Comments were received from the following organizations and state regulatory agencies:

Arizona Agricultural Chemical Association (1)
Arizona Commission of Agriculture and Horticulture (2)
Arizona Cotton Growers Association (3)
Arizona Farm Bureau Federation (4)
Agricultural Council of Arkansas (5)
Arkansas State Plant Board (6)
Association of America Pesticide Control Officials (7)
Georgia Agricultural Chemical Association (8)
Georgia Cooperative Extension Service (9)
Georgia Department of Agriculture (10)
Helena Chemical Corporation (11)
Louisiana Agricultural Aviation Association (12)
Louisiana Cooperative Extension Service (13)
Louisiana Farm Bureau Federation (14)
Mississippi Cooperative Extension Service (15)
Mississippi Department of Agriculture and Commerce (16)
National Agricultural Aviation Association (17)
National Cotton Council (18)
North Carolina Farm Bureau Federation (19)
Sundance Farms (20)
Trans-Pecos Cotton Association (21).

In addition, numerous comments were received from individual cotton growers and pesticide applicators. These latter comments are substantially the same as those comments made by state regulatory officials, and are answered in the responses to the state regulatory officials.

1. *Comment:* One commenter (3) states that the Agency does not have legal authority to prohibit use of a voluntarily canceled pesticide, and that the Agency's proposal to not allow use of existing stocks is not consistent with an earlier proposal to allow use with restrictions.

*Agency's Response:* In determining the status of stocks of pesticides voluntarily canceled pursuant to section 6(f), the Administrator may or may not permit the sale and use of existing stocks. The Agency is not prevented from changing its position on use of existing stocks, where such can be justified under FIFRA, especially when new conditions become relevant.

2. *Comment:* Several commenters (6, 7, 8, 9, 14, and 17) stated that it would be difficult to locate any remaining stocks of chlordimeform, especially if these stocks are in the hands of end users.

*Agency's Response:* The Agency does not agree that it will be particularly difficult to locate existing stocks of chlordimeform. Both registrants have already contacted their dealer/distributor networks about the recall of chlordimeform, and have agreed to publicize the recall in appropriate newspapers and agricultural journals in order to reach end users. In addition, the Agency notes that chlordimeform is a restricted use pesticide, and that therefore records of chlordimeform sales have been required to be kept.

3. *Comment:* Several commenters (1, 2, 3, 5, 6, 7, 10, 12, 13, 15, 17, 19, and 21) stated that there is no means by which to dispose of chlordimeform, or that use of existing stocks of chlordimeform would pose less risk than transportation and disposal, or that allowing use of chlordimeform would allow it to remain in the hands of people trained in proper safety procedures.

*Agency's Response:* The Agency agrees that disposal of existing stocks of chlordimeform is a serious matter; however, the Agency does not agree that there is no method available to dispose of chlordimeform. It is possible to incinerate chlordimeform, and it is this method of disposal that registrants have agreed to use, not burial in landfills. The Agency also does not believe that allowing personnel employed by the registrants to ship and handle chlordimeform in order to dispose of it is intrinsically riskier than allowing it to be used up; through many years of registered use, personnel trained in proper safety procedures have shipped and handled chlordimeform in quantities larger than those expected to be involved in the recall. Appropriate protective clothing and other safety measures can be employed to mitigate risks.

4. *Comment:* One commenter (11) states that there are no funds set aside to indemnify users who have remaining stocks of chlordimeform.

*Agency's Response:* Section 15 indemnification provisions are not involved in this situation. A voluntary cancellation occurred here. There was no imminent hazard suspension as is required as one of the prerequisites for section 15 to be triggered.

5. *Comment:* Some commenters (4, 5, 10, 15, and 16) expressed concern that stocks of chlordimeform remaining in the hands of end users are not likely to be turned in for disposal; as a result, there will be illegal use of chlordimeform, probably by ground application, which poses higher risks than the aerial applications that would occur if existing stocks of chlordimeform were to be used up. Furthermore, they comment that aerial applicators will have to turn away customers who want to have chlordimeform applied aerially.

*Agency's Response:* The Agency is aware of the possibility that not all remaining stocks of chlordimeform may be returned, and then, in the absence of an existing stocks provision, these stocks may be diverted to riskier ground application. However, the Agency believes that the efforts of the registrants to publicize the recall would result in at least some stocks being returned by users. If use after the date of cancellation were illegal, the Agency would expect states to vigorously enforce the prohibition against use of existing stocks. The Agency agrees with the commenters that aerial applicators, because of their extensive licensing procedures, are more likely to comply with the prohibition against continued use of chlordimeform, and that this would possibly lead to less business for affected aerial applicators during 1989. If the aerial applicators were not to refuse such business and undertook illegal applications, in addition to possible penalties, such illegal activity would jeopardize such aerial applicator's license and certification.

6. *Comment:* Several comments (2, 3, 4, 13, 14, 16, 17, 18, and 20) concerned the benefits of chlordimeform, arguing that there are no alternative pesticides with which to replace chlordimeform, or that use of chlordimeform will delay development of resistance to the pyrethroid insecticides.

*Agency's Response:* The Agency agrees that chlordimeform does have benefits, and that these benefits will be foregone if use of existing stocks is not permitted. However, the Agency notes that there are alternative pesticides registered for ovicidal control of *Heliothis spp.* (methomyl and thiodicarb). The Agency further notes that no data have been provided to show that chlordimeform delays resistance to the pyrethroid insecticides.

7. *Summary of Comments:* Comments generally concerned the practicality of

retrieving and disposing of remaining stocks of chlordimeform, the risks of disposal and of misuse of these stocks, and the benefits of these stocks. The Agency does not find any of the comments to be compelling in allowing or disallowing the use of remaining stocks. However, in consideration of the concern for the use or nonuse of remaining stocks as expressed in these comments, EPA has conducted an analysis of the short-term risks and benefits regarding the possible use of existing stocks of chlordimeform in 1989.

*B. Risk/Benefit Analysis of Allowing Use of Existing Stocks*

1. Risks of Use of Existing Stocks of Chlordimeform

In order for the Agency to allow the use of existing stocks of products cancelled as a result of a risk/benefit finding, EPA must determine that the benefits of the use of any existing stocks outweigh the risks of such use for the period of use. Chlordimeform registrations were not cancelled as a result of an Agency risk/benefit finding, but instead were cancelled voluntarily by the registrants. Nevertheless, the Agency believes a risk/benefit analysis for existing stocks is appropriate in this case because the Agency had issued a Preliminary Notification to the registrants and was in the process of preparing a Notice of Initiation of Special Review and a Preliminary Determination at the time the voluntary cancellation was filed. The incremental risk of allowing an additional year of use of the existing stocks of chlordimeform is calculated by dividing the lifetime risk by 70, and by dividing this result by some factor representing the reduced amount of chlordimeform to be used. The lifetime risk already includes an adjustment for 35 years of exposure during an assumed lifespan of 70 years, because occupational exposures are assumed to be 35 years. This calculation assumes that risk is directly proportional to the total amount of pesticide handled over time.

In a typical year, about 1 million to 2 million pounds of chlordimeform are reportedly used. Based on specific information received through the public comments, the Agency believes that from 10 to 25 percent of this amount of chlordimeform remains available for use in 1989. These assumptions are based on a limited survey of Alabama pesticide distributors, which confirm earlier estimates by State regulatory officials and the registrants. However, comments and other information available to the Agency indicate that there may be much larger stocks of chlordimeform remaining in the hands of end users; the Agency cannot fully evaluate the accuracy of any of these estimates, because insufficient information has been submitted on the design of the surveys used to reach these estimates. Therefore, the Agency has calculated risks and benefits not only for the 10 percent and 25 percent remaining stocks assumption, but also on the worst case assumption, that is, that there is an entire typical year's supply of chlordimeform remaining in the hands of end users. The Agency has received little specific information on how leftover stocks are divided between end users and distributors/retailers, but the registrants have indicated that virtually all remaining stocks are in the hands of end users.

Two different scenarios can be proposed concerning the number of workers exposed to chlordimeform. In the first scenario, it would be assumed that, at most, the same number of workers will be exposed to chlordimeform in 1989 as were exposed in earlier years, but that they will individually be exposed to less chlordimeform in proportion to the decrease in the supply of chlordimeform (the "constant number/reduced poundage" assumption). This is believed to be a reasonable assumption because chlordimeform, a restricted use pesticide, would be applied only by air in 1989 (as most current labeling requires and as most chlordimeform has been applied in the past), and because chlordimeform is applied in many cotton-growing areas; in brief, there are very few people qualified and equipped to apply chlordimeform, and they are widely scattered.

The second scenario would assume that a smaller number of individual workers, smaller in proportion to the decrease in the supply of chlordimeform, will apply the same amount of chlordimeform as in previous years (the "reduced number/constant poundage" assumption). This may also be a reasonable assumption, since the decline in chlordimeform stocks may be regionally distributed, such that some regions may have no chlordimeform and others may have nearly as much as in any other year. The reduced number/constant poundage assumption results in higher individual risk to a smaller number of applicators, when compared to the results of the reduced poundage/constant number assumption. However, aggregate risk, the total number of cases of cancer arising from an additional year's use of chlordimeform, calculated by mutliplying individual risk by the total number of exposed workers, is the same regardless of which assumption about the number of applicators is used. There are no data to support one assumption over the other, so risk numbers have been calculated for both assumptions.

Using the constant number/reduced poundage assumption, and assuming only 10 percent (the low end of available estimates) of the 1988 chlordimeform supply remains in the hands of end users, the individual oncogenic risk from an additional year's exposure to chlordimeform would be:

Risk (as cited in the exposure analysis) X 1/10 X 1/70. Risk estimates for the other assumptions were adjusted accordingly. The following Table 2 shows the individual risks to various groups of exposed workers, using the 10 percent, 25 percent and 100 percent available stock assumptions:

TABLE 2.—RISK FROM AN ADDITIONAL YEAR OF CHLORDIMEFORM USE [1]

| Exposed group | 35-Year [2] exposure risk | No. at [3] risk | 1-Year exposure | | |
|---|---|---|---|---|---|
| | | | 10% stocks | 25% stocks | 100% stocks |
| A: Constant Number of Applicators/Reduced Poundage per Applicator: | | | | | |
| Mixer/Loaders | $4\times10^{-3}$ | 124 | $10^{-5}$-$10^{-6}$ | $10^{-5}$ | $10^{-4}$-$10^{-5}$ |
| Applicators | $1\times10^{-4}$ | 204 | $10^{-7}$ | $10^{-6}$-$10^{-7}$ | $10^{-6}$ |
| B: Reduced Number of Applicators/Constant Poundage per Applicator: | | | | | |
| Mixer/Loaders | $4\times10^{-3}$ | 12.4 or 31 | $10^{-5}$-$10^{-6}$ | $10^{-5}$-$10^{-6}$ | $10^{-4}$-$10^{-5}$ |
| Applicators | $1\times10^{-4}$ | 20.4 or 51 | $10^{-6}$ | $10^{-6}$ | $10^{-6}$ |

[1] Additional risk has been rounded to the nearest order of magnitude.
[2] Individual risk cited in exposure analysis and used in rounded form in Notice of Intent Not to Initiate Special Review
[3] From exposure analysis.

2. Benefits of Use of Existing Stocks of Chlordimeform

The possible benefits from chlordimeform accrue indirectly from its contribution to reducing insect resistance to the pyrethroid insecticides, and directly from its effects on cotton yields, through its control of *Heliothis* spp. The available data do not allow a definitive estimate of the magnitude of yield losses that could result from not using chlordimeform in 1989. Limited data indicate possible yield reductions of 5 to 10 percent, or an average of 7.5 percent on treated acres, about the same as the loss estimate developed by USDA in its preliminary benefits assessment, if other pesticides are used in place of chlordimeform.

Using a range of 0 to 7 percent loss on 28 percent of the harvested cotton acreage (that is, 100 percent of the annual usage before cancellation), the loss in benefits ranges from $10 to $220 million. Using a range of 0 to 7 percent yield loss on 7 percent of the harvested cotton acreage (that is, 25 percent of the annual usage before cancellation), the loss in benefits ranges from $3 million to $54 million. Using a range of 0 to 7 percent yield loss on 2.8 percent of the harvested cotton acreage (that is, 10 percent of the prior annual usage), the loss in benefits ranges from $1 million to $22 million. The low end of the range reflects the greater cost of alternative pesticides, most likely to be methomyl or thiodicarb in this case. The upper end of the range reflects the possible greater efficacy of chlordimeform over alternatives. These benefit estimates are based on the small amount of data on yield losses, and may over or underestimate actual benefits.

3. Risk/Benefit Analysis of Use of Existing Stocks of Chlordimeform

Making the worst case assumption that 100 percent of a normal year's supply of chlordimeform remains in the hands of users, that is, 1 million pounds, the incremental risk from one additional year's use of chlordimeform to mixer/loaders is in the $10^{-4}$ to $10^{-5}$ range, and to applicators is $10^{-6}$. As shown in Table 2, individual risks from one more year of use under any of the probable use scenarios are low. The incidence of cancer in the exposed group, as predicted by this assessment, would be negligible, because of the small number of applicators and mixer/loaders who handle chlordimeform. Benefits under the various scenarios range from $1 to $220 million. Given the minimal risk and the possible substantial benefits, the Agency concludes that the use of existing stocks of chlordimeform in the 1989 growing season does not pose unreasonable risks. However, because cancer risk from 35 years of occupational exposure is high, estimated to be 1 in a 1000, and because epidemiological data suggest a correlation between exposure to the 5-CAT metabolite of chlordimeform and excess incidence of bladder cancer, the Agency believes long term risks would be unacceptable.

The Agency is requiring the registrants, Ciba-Geigy and Nor-Am, to conduct their recall programs down to the dealer/distributor level, in order to be sure that no further quantities of chlordimeform become available to end users.

As mentioned previously, the EPA has held discussions with other Federal and State agencies regarding the possibility of notifying factory and agricultural workers who were exposed to significant levels of chlordimeform over long periods of time of their elevated risk of bladder cancer. EPA believes that factory workers' level of exposure to chlordimeform was substantially higher than that to mixer/loaders or applicators, possibly resulting in as much as two orders of magnitude greater risk. Thus, EPA believes it is reasonable to allow limited exposure of mixer/loaders and applicators for an additional year. Nevertheless, EPA supports the voluntary urine monitoring program offered by the registrants to mixer/loaders and applicators.

## IV. Agency's Final Decision Regarding Special Review

All chlordimeform registrations have been amended so that they terminate February 19, 1989. The Agency received no comments objecting to its proposed decision not to initiate a Special Review of chlordimeform. Therefore, the Agency will not initiate a Special Review of the use of chlordimeform on cotton. The only issue resulting from the Agency's proposal was the objection to the prohibition of the use of existing stocks in 1989.

The agency has conducted a short term risk/benefit analysis of the use of existing stocks of chlordimeform in the hands of end users and concluded that the benefits of one additional year of limited use outweigh the risks of such use. Therefore, the use of chlordimeform stocks in the possession of end users will be permitted until October 1, 1989. Such use must be in accordance with all label restrictions. Any further sale or distribution of existing stocks or recalled stocks by registrants, distributors, or retailers is prohibited after February 19, 1989. All use of chlordimeform after October 1, 1989, is prohibited. Both registrants indicated they have not marketed chlordimeform after the 1988 cotton season, around the beginning of October 1988. Both registrants also indicated that they will recall all existing stocks of chlordimeform down to the dealer/distributor level, and will accept for disposal any stocks of chlordimeform turned in by end users.

While the Agency has serious concerns about the long-term risks associated with chlordimeform use on cotton, it will not initiate a Special Review of chlordimeform because all use, and therefore exposure, will end at the end of the 1989 cotton-growing season. The cancellations will become effective automatically on February 19, 1989. The Agency has acted in reliance on the voluntary cancellation by proposing revocation of non-cotton tolerances and by not initiating a Special Review.

The Agency has other tools that may be available to it under FIFRA to take regulatory action regarding chlordimeform, including initiation of Special Review and subsequent initiation of cancellation proceedings, immediate initiation of cancellation proceedings, suspension, and emergency suspension. As compared with initiation of Special Review followed by initiation of cancellation proceedings, or immediate initiation of cancellation proceedings, the action announced here reduces risks faster than would occur under those other more time-consuming approaches. Finally, the Agency does not believe that the appropriate tests for either suspension or emergency suspension have been met.

## V. Public Record

The Agency has established a public record (public docket #30000/52) for the chlordimeform Special Review. This public record includes:

1. This Notice.

2. The draft Registration Standard.

3. Any other notices pertinent to the chlordimeform Special Review.

4. Documents and copies of written comments submitted to the Agency in response to the pre-Special Review registrant notification, the draft Registration Standard, this Notice, and any other notice regarding chlordimeform submitted at any time during the chlordimeform Special Review process by any person outside government.

5. Analysis of comments received in response to the draft Registration Standard and the preliminary notification to registrants.

6. Memoranda describing each meeting between Agency personnel and any person outside government which concerns a chlordimeform Special Review decision.

7. Comments, documents, proposals or other materials concerning the chlordimeform Special Review submitted by any person or party outside government.

8. A current index of materials in the public docket.

Information for which a claim of confidentiality has been asserted will not be put in the public docket. The docket and index will be available for inspection and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, at the following location: Public Docket and Freedom of Information Section, Field Operations Division (TS-767C), Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

## VI. Order of Cancellation

By this order, the voluntary cancellations are accepted; cancellation is hereby ordered according to the terms contained herein. Any further sale or distribution of chlordimeform products is prohibited as described herein and any use must be in accordance with the terms set forth herein and any label restrictions.

Dated: January 6, 1989.

**Victor J. Kimm,**

*Acting Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 89-2970 Filed 2-7-89; 8:45 am]

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Federal Register

Wednesday
February 8, 1989

# Part IV

## Department of Defense
## General Services Administration
## National Aeronautics and Space Administration

48 CFR Parts 25 and 52

Federal Acquisition Regulation (FAR); Buy American Act, List of Exempt Items; Proposed Rule

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 25 and 52**

## Federal Acquisition Regulation (FAR); Buy American Act, List of Exempt Items

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to FAR 25.102(a)(4), 25.202(a)(3), and the provision at 52.225–1 concerning implementation of the Buy American Act. The revision would clarify that the Buy American List of Exempt Items located at 25.108 is provided for information only and that each agency is responsible for making a determination that an item is exempt from provisions of the Buy American Act. This revision is needed to ensure that the FAR is consistent with the provisions of the Buy American Act.

**COMMENTS:** Comments should be submitted to the FAR Secretariat at the address shown below on or before April 10, 1989, to be considered in the formulation of a final rule.

**ADDRESS:** Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 88–72 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:** Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

**SUPPLEMENTARY INFORMATION:**

### A. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule does not impose any new requirements on contractors and only serves to clarify existing regulatory coverage. An Initial Regulatory Flexibility Act analysis has therefore not been performed. Comments from small entities concerning the affected FAR Subpart will also be considered. Such comments must be submitted separately and cite FAR Case 88–610.

### B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes do not impose any recordkeeping or information collection requirements from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

### List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: January 31, 1989.

**Harry S. Rosinski,**

*Acting Director, Office of Federal Acquisition and Regulatory Policy.*

Therefore, it is proposed that 48 CFR Parts 25 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 25 and 52 continues to read as follows:

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

## PART 25—FOREIGN ACQUISITION

### 25.102 [Amended]

2. Section 25.102 is amended in paragraph (a)(4) by removing the words "one or more agencies have determined".

3. Section 25.108 is amended by revising paragraphs (a) and (b) to read as follows:

### 25.108 Excepted articles, materials, and supplies.

(a) One or more agencies have determined that the articles, materials, and supplies listed in paragraph (d) of this section are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality. The list in paragraph (d) is furnished for information only; an article, material or supply listed therein may be treated as domestic only when the agency concerned has made a determination that it is not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality.

(b) Agencies making determinations under 25.102(a)(4) or 25.202(a)(3) for unlisted articles, materials, or supplies shall submit a copy of these determinations to the appropriate FAR Council for possible addition of items to the list.

* * * * *

### 25.202 [Amended]

4. Section 25.202 is amended in paragraph (a)(3) by removing the words "One or more agencies have determined that the" and inserting in their place the word "The".

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 52.225–1 [Amended]

5. Section 52.225–1 is amended by inserting a colon in the introductory text following the word "provision" and removing the remainder of the sentence; by removing in the title of the provision the date "(APR 1984)" and inserting in its place the date "(FEB 1989)"; by removing in the last paragraph of the provision the parenthetical phrase "(listed at 25.108 of the Federal Acquisition Regulation)"; and by removing the derivation lines following "(End of provision)".

[FR Doc. 89–2960 Filed 2–7–89; 8:45 am]

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Wednesday
February 8, 1989

Part V

# Department of Defense

Department of the Air Force

Intent To Prepare Environmental Impact Statements; Beale AFB, CA, et al.; Notices

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Intent To Prepare an Environmental Impact Statement for the Addition of the Specialized Undergraduate Navigation Training (SUNT) to Beale AFB, CA

The United States Air Force intends to prepare an Environmental Impact Statement (EIS) for use in decision-making regarding the addition to the Specialized Undergraduate Navigation Training (SUNT) to Beale AFB, CA. SUNT includes 14 T-43 and 17 T-37 aircraft. There are also 588 full time military, 193 full time civilians and an average daily student load is approximately 719 associated with the SUNT. Approximately 1100 students enter SUNT each year. This realignment was announced on December 29, 1988, as part of a comprehensive package prepared by the Defense Secretary's Commission on Base Realignments and Closures. On January 5, 1989, the Secretary of Defense accepted the Commission's recommendations.

The EIS process has been modified by Pub. L. 100-526, section 204(c) (1) and (2) which provides that the National Environmental Policy Act (NEPA) does not apply to the actions of the Commission or to the Secretary of Defense's acceptance of the Commission's recommendations. This means that the decision to add the SUNT to Beale AFB has already occurred and is outside the scope of the EIS. The EIS being announced today is an implementation EIS, focused primarily on the SUNT realignment impacts taking place at BEALE AFB. It will analyze the local environmental effects caused by the SUNT realignment. The EIS will also develop appropriate mitigation measures. The Air Force hopes to have this EIS completed by the middle of 1990.

Implementing this realignment involves moving SUNT to Beale AFB. The environmental impacts to Beale AFB caused by this action are within the scope of this EIS. The previously programmed force structure action to deactivate 7 SR-71A/Bs will be assessed in a separate NEPA document with the cumulative impact being addressed in this EIS. The environmental impacts caused by the departure of those units from Mather AFB are *not* part of this EIS; those impacts will be analyzed in separate NEPA documents focusing on impacts and issues at the closure base.

The Air Force will conduct a public scoping meeting on February 15, 1989 to obtain public input. This input will assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EIS. Notice of the time and place of the planned meeting will be made available to local officials and announced in the news media. The scoping process may also include other meetings with local officials, either before or after the public meeting. In addition, anyone may write to the Air Force with comments on the scope of the EIS. To assure the Air Force will have sufficient time to consider public input on issues to be included in the EIS, comments should be forwarded to the addressee listed below by March 15, 1989.

After scoping and analysis of this realignment, the Air Force may find that the environmental impacts are insufficient to justify preparation of an EIS. If so, the Air Force would prepare an Environmental Assessment and a Finding of No Significant Impact. Both documents would be publicly announced and publicly available.

For further information concerning this EIS, contact: Wayne Wiley, HQ SAC/DEPV Offutt AFB, NE 68113, (402) 294-3684.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89-3141 Filed 2-7-89; 11:03 am]

BILLING CODE 3910-01-M

### Intent To Prepare Environmental Impact Statements for the Closure of Chanute AFB, IL

The United States Air Force intends to prepare Environmental Impact Statements (EISs) for use in decision-making regarding the closure and final disposition of property at Chanute AFB, IL. That closure was announced on December 29, 1988, as part of a comprehensive package prepared by the Defense Scretary's Commission on Base Realignments and Closures. On January 5, 1989, the Secretary of Defense accepted the Commission's recommendations.

The EIS process has been modified by Pub. L. 100-526, section 204(c) (1) and (2) which provides that the National Environmental Policy Act (NEPA) does not apply to the actions of the Commission or to the Secretary of Defense's acceptance of the Commission's recommendations. This means that the decision to close Chanute AFB has already occurred and is outside the scope of the EISs being announced today. One of the EISs being announced today is an implementation EIS, focused on the closure impacts taking place at Chanute AFB. Its purpose is to help the Air Force intelligently cease operations. It will analyze the local environmental effects caused by the closure and the measures necessary to implement the closure. It will also develop appropriate mitigation measures. The Air Force hopes to have the EIS associated with base closure completed by the middle of 1990.

Implementing the closure involves moving Air Force units from Chanute AFB to other bases. The environmental impacts to Chanute AFB caused by the departure of those units are within the scope of this EIS. However, the environmental impacts caused by the arrival of those units at the new locations are *not* part of this EIS; those impacts will be analyzed in separate NEPA documents focusing on impacts and issues at the various receiving bases.

The other EIS will cover the final disposition of the facilities at Chanute AFB. This process also involves laws and community issues quite different from the comparatively straight forward steps involved in closure (i.e. halting operations and removing equipment and personnel). Although the Air Force is only in the rudimentary stages of considering disposal proposals, the scoping process is beginning at this time because the Air Force desires to solicit community comments at the earliest opportunity.

The Air Force will conduct a public scoping meeting to obtain public input. This input will assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EISs. The public scoping meeting will be held on March 1, 1989 at 7:30 in Rantoul High School Boys Gym, 200 South Sheldon Street, Rantoul, IL. The scoping process may also include other meetings with local officials, either before or after the public meeting. In addition, anyone may write to the Air Force with comments on the scope of the EISs. To assure the Air Force will have sufficient time to consider public input on issues to be included in the EISs, comments should be forwarded to the addressee listed below by April 1, 1989.

After scoping and analysis of the closure process, the Air Force may find that the environmental impacts are insufficient to justify preparation of the EISs. If so, the Air Force would prepare environmental assessments and Findings of No Significant Impact. Both documents would be publicly announced and publicly available.

For further information concerning the EISs, contact: Lt. Col. Ron Voorhees,

ATC/DEPR, Randolph AFB, TX 78150, (512) 652-6352.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89-3142 Filed 2-7-89; 11:03 am]

BILLING CODE 3910-01-M

## Intent To Prepare Environmental Impact Statements for the Closure of George AFB, CA

The United States Air Force intends to prepare Environmental Impact Statements (EISs) for use in decision-making regarding the closure and final disposition of property at George AFB, CA. That closure was announced on December 29, 1988, as part of a comprehensive package prepared by the Defense Secretary's Commission on Base Realignments and Closures. On January 5, 1989, the Secretary of Defense accepted the Commission's recommendations.

The EIS process has been modified by Pub. L. 100-526, section 204(c) (1) and (2) which provides that the National Environmental Policy Act (NEPA) does not apply to the actions of the Commission or to the Secretary of Defense's acceptance of the Commission's recommendations. This means that the decision to close George AFB, CA has already occurred and is outside the scope of the EISs being announced today. One of the EISs being announced today is an implementation EIS, focused on the potential closure impacts taking place at George AFB. Its purpose is to help the Air Force intelligently cease operations. It will analyze the local environmental effects caused by the closure and the measures necessary to implement the closure. It will also develop appropriate mitigation measures. The Air Force hopes to have the EIS associated with base closure completed by the middle of 1990.

Implementing the closure involves moving units from George AFB to other bases. The environmental impacts to George AFB caused by the departure of those units, except the previously programmed force structure action to relocate 24 F-4Es, are within the scope of this EIS. The F-4Es will be assessed in a separate NEPA document with the cumulative impact being addressed in this EIS. The environmental impacts caused by the arrival of those units at the new locations are *not* part of this EIS; those impacts will be analyzed in separate NEPA documents focusing on impacts and issues at the various receiving bases.

The other EIS will cover the final disposition of the facilities at George AFB. This process also involves laws and community issues quite different from the comparatively straightforward steps involved in closure (i.e. halting operations and removing equipment and personnel). Although the Air Force is only in the rudimentary stages of considering disposal proposals, the scoping process is beginning at this time because the Air Force desires to solicit community comments at the earliest opportunity.

The Air Force will conduct a public scoping meeting on March 14, 1989 to obtain public input. This input will assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EISs. Notice of the time and place of the planned meeting will be made available to local officials and announced in the news media. The scoping process may also include other meetings with local officials, either before or after the public meeting. In addition, anyone may write to the Air Force with comments on the scope of the EISs. To assure the Air Force will have sufficient time to consider public input on issues to be included in the EISs, comments should be forwarded to the addressee listed below by April 17, 1989.

After scoping and analysis of the closure process, the Air Force may find that the environmental impacts are insufficient to justify preparation of the EISs. If so, the Air Force would prepare environmental assessments and Findings of No Significant Impact. Both documents would be publicly announced and publicly available.

For further information concerning the EISs, contact: Captain Wilford Cassidy, HQ TAC/DEEV, Langley AFB, VA 23665, (804) 764-4430.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89-3143 Filed 2-7-89; 11:03 am]

BILLING CODE 3910-01-M

## Intent To Prepare an Environmental Impact Statement for the Addition of the 63rd and 445th Military Airlift Wings to March AFB, CA

The United States Air Force intends to prepare an Environmental Impact Statement (EIS) for use in decision-making regarding the addition of the 63rd Military Airlift Wing (MAW), 445th MAW, and other minor units to March AFB, CA. The Wings include 36 C-141s, 4 C-12s, and 4 C-21s. They also require 1951 full time military personnel and 769 full time civilians. This realignment was announced on December 29, 1988, as part of a comprehensive package prepared by the Defense Secretary's Commission on Base Realignments and Closures. On January 5, 1989, the Secretary of Defense accepted the Commission's recommendations.

The EIS process has been modified by Pub. L. 100-526, section 204(c) (1) and (2) which provides that the National Environmental Policy Act (NEPA) does not apply to the actions of the Commission or to the Secretary of Defense's acceptance of the Commission's recommendations. This means that the decision to add the 63rd MAW, 445th MAW and other minor units to March AFB has already occurred and is outside the scope of the EIS. The EIS being announced today is an implementation EIS, focused primarily on the realignment impacts taking place at March AFB. It will analyze the local environmental effects caused by the 63rd MAW, 445th MAW and other minor unit realignments. The EIS will also develop appropriate mitigation measures. The Air Force hopes to have this EIS completed by early 1990.

Implementing this realignment involves moving various units to March AFB. The environmental impacts to March AFB caused by this action, except the previously programmed force structure actions to relocate 14 KC-135As and 14 F-4Es and the addition of 18 OA-10As and 2 KC-135Es, are within the scope of the EIS. The force structure actions will be assessed in a separate NEPA document with the cumulative impacts being addressed in the EIS. The environmental impacts caused by the departure of those units from Norton AFB are *not* part of the EIS; those impacts will be analyzed in separate NEPA documents focusing on impacts and issues at the closure base.

The Air Force will conduct a public scoping meeting on February 23, 1989 to obtain public imput. This imput will assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EIS. Notice of the time and place of the planned meeting will be made available to local officials and announced in the news media. The scoping process may also include other meetings with local officials, either before or after the public meeting. In addition, anyone may write to the Air Force with comments on the scope of the EIS. To assure the Air Force will have sufficient time to consider public imput on issues to be included in the EIS, comments should be forwarded to the addressee listed below by March 23, 1989.

After scoping and analysis of this realignment, the Air Force may find that the environmental impacts caused by these actions at March AFB are

insufficient to justify preparation of an EIS. If so, the Air Force would prepare an environmental assessment and a Finding of No Significant Impact. Both documents would be publicly announced and publicly available.

For further information concerning the EIS, contact: Mr. Wayne Wiley, HQ SAC/DEPV, Offutt AFB, NE 68113, (402) 294-3684.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89-3144 Filed 2-7-89; 11:03 am]

BILLING CODE 3910-01-M

## Intent To Prepare Environmental Impact Statements for the Closure of Mather AFB, CA

The United States Air Force intends to prepare Environmental Impact Statements (EISs) for use in decision-making regarding the closure and the final disposition of property at Mather AFB, CA. That closure was announced on December 29, 1988, as part of a comprehensive package prepared by the Defense Secretary's Commission on Base Realignments and Closures. On January 5, 1989, the Secretary of Defense accepted the Commission's recommendations.

The EIS process has been modified by Pub. L. 100-526, section 204(c) (1) and (2) which provides that the National Environmental Policy Act (NEPA) does not apply to the actions of the Commission or to the Secretary of Defense's acceptance of the Commission's recommendations. This means that the decision to close Mather AFB has already occurred and is outside the scope of the EISs being announced today. One of the EISs being announced today is an implementation EIS, focused on the potential closure impacts taking place at Mather AFB. Its purpose is to help the Air Force intelligently cease operations. It will analyze the local environmental effects caused by the closure and the measures necessary to implement the closure. It wil also develop appropriate mitigation measures. The Air Force hopes to have the EIS associated with base closure completed by early 1990.

Implementing the closure involves moving active Air Force units from Mather AFB to other bases. The environmental impacts to Mather AFB caused by the departure of those units, except the previously programmed force structure action to relocate 14 B-52Gs, are within the scope of this EIS. The B-52Gs will be assessed in a separate NEPA document with the cumulative impact being addressed in this EIS. However, the environmental impacts caused by the arrival of those units at the new locations are *not* part of this EIS; those impacts will be analyzed in separate NEPA documents focusing on impacts and issues at the various receiving bases.

The other EIS will cover the final disposition of the facilities and the Air Force Reserve KC-135 Squadron at Mather AFB. If local authorities do not elect to operate Mather AFB as an airport, then the Air Force Reserve unit will be relocated to McClellan AFB, located 10 miles away. This process also involves laws and community issues quite different from the comparatively straightforward steps involved in closure (i.e. halting operations and removing equipment and personnel). Althought the Air Force is only in the rudimentary stages of considering disposal proposals, the scoping process is beginning at this time because the Air Force desires to solicit community comments at the earliest opportunity.

The Air Force will conduct a public scoping meeting to obtain public input. This input will assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EISs. The public scoping meeting will be held on February 27, 1989 at 7:30 in Cordova High School Auditorium, 2239 Chase Drive, Rancho Cordova, CA. The scoping process may also include other meetings with local officials, either before or after the public meeting. In addition, anyone may write to the Air Force with comments on the scope of the EISs. To assure the Air Force will have sufficient time to consider public input on issues to be included in the EISs, comments should be forwarded to the addressee listed below by March 27, 1989.

After scoping and analysis of the closure process, the Air Force may find that the environmental impacts are insufficient to justify preparation of the EISs. If so, the Air Force would prepare environmental assessments and Findings of No Significant Impact. Both documents would be publicly announced and publicly available.

For further information concerning the EIS, contact: Lt. Col. Ron Voorhees, ATC/DEPR, Randolph AFB, TX 78150, (512) 652-6352.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89-3145 Filed 2-7-89; 11:04 am]

BILLING CODE 3910-01-M

## Intent To Prepare an Environmental Impact Statement for the Addition of the 35th Tactical Training Wing (TTW) to Mountain Home AFB, ID

The United States Air Force intends to prepare an Environmental Impact Statement (EIS) for use in decision-making regarding the addition of the 35th TTW (93 F-4E/Gs) and the removal of part (32 F-111A/Es) of the 366th Tactical Fighter Wing (TFW) at Mountain Home AFB, ID. These two actions will result in a net gain at Mountain Home AFB of 1859 military personnel and 90 civilians. This realignment was announced on December 29, 1988, as part of a comprehensive package prepared by the Defense Secretary's Commission on Base Realignments and Closures. On January 5, 1989, the Secretary of Defense accepted the Commission's recommendations.

The EIS process has been modified by Pub. L. 100-526, section 204(c) (1) and (2) which provides that the National Environmental Policy Act (NEPA) does not apply to the actions of the Commission or to the Secretary of Defense's acceptance of the Commission's recommendations. This means that the decision to add the 35th TTW and reduce the 366th TFW at Mountain Home AFB has already occurred and is outside the scope of the EIS. The EIS being announced today is an implementation EIS, focused primarily on the realignment impacts taking place at Mountain Home AFB. It will analyze the local environmental effects caused by the 35th TTW and 366th TFW realignments. The EIS will also develop appropriate mitigation measures. The Air Force hopes to have this EIS completed by early 1990.

Implementing this realignment involves moving the 35th TTW to and moving part of the 366th TFW from Mountain Home AFB. The environmental impacts to Mountain Home AFB caused by this action are within the scope of this EIS. However, the environmental impacts caused by the departure of the 35th TTW from George AFB or the addition of part of the 366th TFW to Cannon AFB are *not* part of this EIS; those impacts will be analyzed in separate NEPA documents focusing on impacts and issues at those bases.

The Air Force will conduct a public scoping meeting on March 16, 1989 to obtain public input. This input will assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EIS. Notice of the time and place of the planned meeting

will be made available to local officials and announced in the news media. The scoping process may also include other meetings with local officials, either before or after the public meeting. In addition, anyone may write to the Air Force with comments on the scope of the EIS.

To assure the Air Force will have sufficient time to consider public input on issues to be included in the EIS, comments should be forwarded to the addressee listed below by April 17, 1989.

After scoping and analysis of this realignment, the Air Force may find that the environmental impacts caused by these actions at Mountain Home AFB are insufficient to justify preparation of an EIS. If so, the Air Force would prepare an Environmental Assessment and a Finding of No Significant Impact. Both documents would be publicly announced and publicly available.

For further information concerning this EIS, contact: Captain Wilford Cassidy, HQ TAC/DEEV, Langley AFB, VA 23665, (804) 764–4430.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89–3146 Filed 2–7–89; 11:04 am]

BILLING CODE 3910-01-M

## Intent To Prepare Environmental Impact Statements for the Closure of Pease AFB, NH

The United States Air Force intends to prepare Environmental Impact Statements (EISs) for use in decision-making regarding the closure and final disposition of property at Pease AFB, New Hampshire. That closure was announced on December 29, 1988, as part of a comprehensive package prepared by the Defense Secretary's Commission on Base Realignments and Closures. On January 5, 1989, the Secretary of Defense accepted the Commission's recommendations.

The EIS process has been modified by Pub. L. 100–526, section 204(c) (1) and (2) which provides that the National Environmental Policy Act (NEPA) does not apply to the actions of the Commission or to the Secretary of Defense's acceptance of the Commission's recommendations. This means that the decision to close Pease AFB has already occurred and is outside the scope of the EISs being announced today. One of the EISs being announced today is an implementation EIS, focused on the potential closure impacts taking place at Pease AFB. Its purpose is to help the Air Force intelligently cease operations. It will analyze the local environmental effects caused by the closure and the measures necessary to implement the closure. It will also develop appropriate mitigation measures. The Air Force hopes to have the EIS associated with base closure completed early in 1990.

Implementing the closure involves moving active Air Force units from Pease AFB to other bases. The environmental impacts to Pease AFB caused by the departure of those units, except the previously programmed force structure action to relocate 21 FB–111As, are within the scope of this EIS. The FB–111As will be assessed in a separate NEPA document with the cumulative impact being addressed in this EIS. The environmental impacts caused by the arrival of those units at the new locations are *not* part of this EIS; those impacts will be analyzed in separate NEPA documents focusing on impacts and issues at the various receiving bases.

The other EIS will cover the final disposition of the facilities and the Air National Guard (ANG) KC–135 Squadron at Pease AFB. If local authorities do not elect to operate Pease AFB as an airport, then the ANG unit will be relocated. This process also involves laws and community issues quite different from the comparatively straightforward steps involved in closure (i.e. halting operations and removing equipment and personnel). Although the Air Force is only in the rudimentary stages of considering disposal proposals, the scoping process is beginning at this time because the Air Force desires to solicit community comments at the earliest opportunity.

The Air Force will conduct a public scoping meeting on February 15, 1989 to obtain public input. This input will assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EISs. Notice of the time and place of the planned meeting will be made available to local officials and announced in the news media. The scoping process may also include other meetings with local officials, either before or after the public meeting. In addition, anyone may write to the Air Force with comments on the scope of the EISs. To assure the Air Force will have sufficient time to consider public input on issues to be included in the EISs, comments should be forwarded to the addressee listed below by March 15, 1989.

After scoping and analysis of the closure process, the Air Force may find that the environmental impacts are insufficient to justify preparation of the EISs. If so, the Air Force would prepare environmental assessments and Findings of No Significant Impact. Both documents would be publicly announced and publicly available.

For further information concerning the EISs, contact: Mr. Wayne Wiley, HQ SAC/DEPV, Offutt AFB, NE 68113, (402) 294–3684.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89–3147 Filed 2–7–89; 11:04 am]

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federal register

Wednesday
February 8, 1989

Part VI

# Department of Health and Human Services

## Social Security Administration

**Disability Advisory Committee; Meeting; Notice**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

### Disability Advisory Committee; Meeting

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), this notice announces the schedule and proposed agenda of the first meeting of the Disability Advisory Committee (the Committee). This notice also describes the purpose, structure, and termination date of the Committee.

**DATE:** February 22, 1989, 10:00 a.m. to 5:00 p.m.; February 23, 1989, 9:00 a.m. to 3:30 p.m.

**ADDRESS:** Hubert H. Humphrey Building, Room 800, 200 Independence Avenue SW., Washington, DC 20201.

**FOR FURTHER INFORMATION CONTACT:** Jean H. Hinckley, Executive Director, Disability Advisory Committee, P.O. Box 17064, Baltimore, Maryland 21235, (301) 965–4646.

**SUPPLEMENTARY INFORMATION:** The Committee is established and governed by the provisions of section 1114 of the Social Security Act, as amended, and the provisions of the Federal Advisory Committee Act, as amended, (Pub. L. 92–463).

The purposes of the Committee are to study the Social Security administrative review process (known as the "appeals process"), receive and consider public views on reform, and make a report and recommendations to the Commissioner of Social Security (the Commissioner).

The Committee is to submit a report consisting of its findings and any recommendations to the Commissioner of Social Security.

The Committee will terminate after the specified report is submitted to the Commissioner.

The Commissioner has appointed the members of the Committee. This notice announces the first meeting of the Committee. The Committee is chaired by Dr. John E. Affeldt.

This meeting, which is organizational in nature, is open to the public to the extent that space is available. We will publish another **Federal Register** notice soliciting public views and explaining how written statements and testimony of the public will be taken.

A transcript of the Committee meeting will be made available to the public on an at-cost-of duplication basis. The transcript can be ordered from the Executive Director of the Committee.

The proposed agenda includes briefings on the current processes, with an emphasis on disability appeals under the Social Security and Supplemental Security Income programs; an overview of issues the Committee must consider; the development of plans for future Committee meetings; and such other business as the chairperson, the Executive Director, or the membership may put before the Committee.

Dated: February 3, 1989.

**Jean H. Hinckley,**

*Executive Director, Disability Advisory Committee.*

[FR Doc. 89–3157 Filed 2–7–89; 11:43 am]

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The **List of Public Laws** will be resumed when bills are enacted into public law during the first session of the 101st Congress, which convened on January 3, 1989. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).